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DISCRIMINATION AGAINST THE OVERSEAS CHINESE  
IN SOUTHEAST ASIA.

The Legal and Customary Status  
of the Ethnic Chinese  
in Southeast Asia

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Final Report

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Submitted by  
Jean E. DeBernardi  
October 1975

To Mr. Edward G. Griffin  
Department of State  
Office of External Research  
(Contract No. 1722-520074)

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DEPARTMENT OF STATE

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February 6, 1980

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Edward N. Lundstrom  
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## BURMA

### OVERVIEW

The Union of Burma is a multi-ethnic state composed of five major ethnic groups: the Burmans, the Shans, the Kachins, the Karens, and the Chins. Other smaller groups which are numerous enough to be economically important are the Kayahs, the Mons, the Arakanese, and the recently immigrated Indians, Pakistanis, and Chinese. In all, there are over 100 indigenous ethnic groups and sub-groups.<sup>1</sup> The Burmese, who compose more than 70% of the total population, occupy the central interior of the country and the delta of the Irawaddy River. The other major groups live in the mountainous arch that encircles the Burman areas. Historically, the kings of Burma have ruled the other ethnic groups through their hereditary rulers. Only after the end of British rule was the attempt made to incorporate non-Burman peoples within the framework of the central government.<sup>2</sup>

The ethnic Chinese constitute a small percentage, 1.6%, of the total population of 25,300,000.<sup>3</sup> During the era of British colonial rule, the Chinese were economically secondary to the Indians. Chinese immigration was considerable, but was later than the Indian immigration, and much smaller in numbers.<sup>4</sup> Together, the Indians and Chinese held control of petty shop-keeping and retail trade, and the Indians held a virtual monopoly over lower-level positions in many government departments. The indigenous Burmese sometimes found employment as judges, magistrates, or policemen, but their economic activities were largely confined to agriculture, chiefly the production of rice for export.<sup>5</sup>

The ethnic Chinese, unlike the Indian population, generally assimilated to Burmese ways. They often married locally, adopting the ways and sometimes the names of the indigenous population.<sup>6</sup> They controlled less than 1/5th of the economy, and generally have not had the same problems as the Chinese in other Southeast Asian countries, though there have been a few incidents involving the Chinese.<sup>7</sup> Indians and Pakistanis, rather than the ethnic Chinese, have been the focus of nationalistic, anti-colonial sentiment.<sup>8</sup>

In the past, the ethnic Chinese in Burma have been allowed to keep in touch with the People's Republic of China, to operate unions, schools, and Chinese associations. At the present time, Chinese can no longer be taught, and the Chinese schools have been closed. Newcomers from China continue to assimilate in two generations of residence, and in the 1960s their fortunes were rising, while those of the Indian population were on the decline.<sup>9</sup>

## CITIZENSHIP

Chapter XI, Article 145 of the 1974 Constitution states that: "(a) All persons born of parents both of whom are nationals of the Socialist Republic of the Union of Burma are citizens of the Union. (b) Persons who are vested with citizenship according to existing laws on the date this Constitution comes into force are also citizens."<sup>10</sup> Article 146 provides that citizenship, naturalization, and the revocation of citizenship shall be prescribed by law, and Article 147 states that "All citizens are equal before the law irrespective of race, status, official position, wealth, culture, birth, religion, or sex."<sup>11</sup>

The laws pertaining to citizenship and naturalization are not available in translation from the Burmese. According to a Burmese source, however, a third generation 'jus soli' principle is applied, whereby the child of a parent born in Burma would be a Burmese citizen, if he himself were also born in Burma.<sup>12</sup> Naturalization is also possible. The *Area Handbook* for Burma reports that by the 1960s, citizenship had become difficult to obtain, but that by 1970, attempts were being made to speed up the processing of 60,000 applications for Burmese citizenship.<sup>13</sup>

According to the Constitution, all citizens enjoy equal voting rights, and electoral law makes no distinction between the voting rights of naturalized and natural-born citizens.<sup>14</sup>

## NATIONAL SERVICES

At present, the Constitution provides for a socialist republic form of government under one-party rule, that party being the Burmese Socialist Program Party. A party member "must be at least eighteen years of age and must have accepted the Burmese Way to Socialism as his guiding ideology."<sup>15</sup> Chinese political organizations, along with all other major political organizations, have been banned.<sup>16</sup>

There do not appear to be restrictions on service in the armed forces. Chapter XI, Article 171 of the Constitution provides that: "Every citizen shall, in accordance with law-- (a) undergo military training, and (b) undertake military service for the defense of the State." According to the Defense Services Act of 1959, Chapter III, Article 10, "No person who is not a citizen of the Union shall, except with the consent of the President signified in writing, be enrolled in the Defense Services."<sup>17</sup>

By 1962 in Burma, the prestige of the Civil Service had declined, and the number of qualified applicants had dropped. Following the nationalization of many enterprises, the Civil Service tended to lose its distinctive and prestigious character, and the military took over many positions.<sup>18</sup> There is no evidence of discrimination against the ethnic Chinese on service in the Civil Service, but the Chinese have historically had a low level of interest in such jobs.

## OCCUPATIONAL RESTRICTIONS AND LAND OWNERSHIP

Since 1962, the desire of Burmese leadership has been to eliminate as much foreign influence as practicable from Burma. This has led to a reduction of cultural and economic contacts with the outside world. According to the *Area Handbook*, "all business enterprises of any importance, many of them foreign owned, have been nationalized, and foreign nationals not electing to apply for Burmese citizenship have been repatriated."<sup>19</sup> Because under British rule, Burma was administered as part of the Indian empire, Chinese immigration was restricted and Indians moved into many of the positions in the economy which were coming to be held by the Chinese elsewhere in Southeast Asia. Historically, therefore, the Indians were the dominant alien middle class, and economic nationalism has been most militantly directed against them. Current attacks on Chinese business interests are part of the general effort to progress along the "Burmese Way to Socialism." The nationalization of retail shops, for example, is not an anti-Chinese move per se, though the consequences for those affected by expropriation are much the same.<sup>20</sup>

The basic principles of the Burmese form of socialism are set out in Chapter XI, Article 148 of the Constitution as follows: "Every citizen shall have the right to--(a) enjoy the benefits derived from his labor in proportion to his contribution in manual or mental labour and diligence; (b) freely undertake any vocation permitted by the State within the framework of the Socialist economy; (c) settle and reside in any place within the State according to the law."<sup>21</sup> Most large private industries were nationalized after 1963. Manpower has been adequate, but Burma has experienced a shortage of experienced managerial and technically skilled personnel.<sup>22</sup> According to one reporter, the Burmese program has meant the "systematic government takeover of virtually all industry, trading, wholesaling, import-export dealings, and retail business, right down to the neighborhood level."<sup>23</sup> More than one observer has noted that the economic future holds little promise for either the ethnic Chinese or the Indians in Burma. In conclusion, it should be noted that the Burmese government has also nationalized land ownership, a move which was primarily directed against Indian moneylenders and landlords.<sup>24</sup>

## EDUCATION

At present, the Chinese community is not allowed to operate their own schools, and the educational system is entirely State-controlled. According to the Constitution, every citizen has the right to education, Burmese is the common language (though the languages of other national races may also be taught), and "every citizen shall be given basic education which the State prescribes by law as compulsory."<sup>25</sup> Article 153 further asserts that "Every citizen shall have the right to freely use one's language and literature, follow one's customs, culture and traditions, and profess the religion of his choice. The exercise of



this right shall not, however, be to the detriment of national solidarity and the socialist social order which are the basic requirements of the entire Union..."<sup>25</sup>

The 1963 Enterprise Nationalization Law brought under government control the two banks in Rangoon owned by Communist China and the Chinese schools, which earlier had been forced to follow a Burmese curriculum.<sup>26</sup> This was part of a process of reorganization of the schools in order to provide education to train people to fill the gaps left by the alien departures. In 1966, the school system was reorganized by the Fundamental Education Act, and it was declared that Burmese was to be the only authorized language of instruction and a compulsory subject in all primary schools. The Ministry of Education revamped the school curricula and established a number of vocational schools at this time.<sup>27</sup> Previous to these government moves, Chinese education had not been an object of official hostility. It had been losing the support of the Chinese community prior to the government takeover, but nonetheless a total of 1,297 private schools, many of them Chinese, were affected by the closure.<sup>28</sup>

#### ETHNIC RELATIONS

Burma, along with Laos, Cambodia, and to some extent Vietnam, has long been notable for the relative ease with which members of the Chinese minority have been absorbed into the majority populations. The absence of religious barriers to intermarriage between indigenous Buddhists and Chinese settlers has been important in this regard. Chinese families have also adopted Burmese religious forms, particularly if these forms have important prestige value, and altogether, religious affiliation has been a minimal deterrent to assimilation.<sup>29</sup>

Anti-Chinese sentiment is notably lacking in Burma, though there have been isolated incidents of anti-Chinese violence. In June 1967, there was an anti-Chinese riot in Rangoon, set off by Chinese students demonstrating their allegiance to Mao Tse-tung and the Communist Chinese Cultural Revolution.<sup>30</sup>

A certain number of Chinese have emigrated from Burma in response to the government policy of trade nationalization, and the Chinese population remains small and primarily urban.<sup>31</sup> Emigration is reported to have accelerated in response to the anti-Chinese riots of 1967. The future for Chinese commerce in Burma is not bright under the present government policies of nationalism and socialism, and assimilation or emigration appear to be the only options available to the Chinese community.



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26. Ibid., Article 153, pp. 38-9.
27. *Area Handbook*, 1971, pp. 193-4.
28. Ibid., pp. 105-6.

29. Lea Williams, op. cit., p. 33; the statistics quoted are from *Burma--Administrative and Social Affairs*, 1963-1964.
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31. *Area Handbook*, p. 194.
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## THAILAND

### OVERVIEW

The Chinese minority in Thailand is important numerically, socially, and politically. Their numbers have recently been estimated as 2,600,000, or 8.5% of the total population of 30,500,000.<sup>1</sup> Thailand, of all the countries of Southeast Asia, has been most successful in avoiding the explosive situation arising from the influx of Chinese immigrants. The ethnic Chinese have generally assimilated to Thai culture and society, and events have favored the Chinese, who fared well historically "for the simple reason that they were never considered foreigners by the Thai."<sup>2</sup>

In the past, there was an absolute occupational distinction between the two ethnic groups. The Thai were concentrated in rice agriculture, the government bureaucracy, and related service organizations. The Chinese, by royal consent and personal inclination, were traders, middlemen, and craftsmen. This pattern is changing at present. Some second generation Chinese are now employed as government officials, and there are Thai artisans and businessmen.<sup>3</sup>

The policy of the Thai government has been one of "Thai-ification" and "subtle assimilation." Thailand makes use of ethnic Chinese entrepreneurs so long as the Chinese are willing to become Thai nationals and adopt Thai names. If they are willing to so adapt, they are given equal economic opportunities. This policy is facilitated by the similarity of religion and customs between the two groups, and by frequent intermarriages.<sup>4</sup>

Mass immigration from China to Thailand has ceased since 1949, under government controls, and the majority of the Chinese in the major cities have been born in Thailand. Most of the ethnic Chinese population are Thai nationality by birth or naturalization, and of the almost three million ethnic Chinese in Thailand, less than half a million are alien Chinese.<sup>5</sup> In the 1960s, Chinese assimilation to Thai society was accelerated, partly as a result of the cutoff of immigration, and partly as a result of the "possibility of full participation in all aspects of national life for ethnic Chinese whose parents chose to become a part of Thai society."<sup>6</sup> The ethnic Chinese population is still primarily urban, with a major concentration in Bangkok, and continues to dominate nonagricultural sectors of the economy.<sup>7</sup>

### CITIZENSHIP

The acquisition of Thai citizenship is relatively simple, as demonstrated by the number of ethnic Chinese in Thailand who



have Thai nationality. Section 8 of the Nationality Act, B.E. 2508, provides that: "The following shall acquire Thai nationality by birth: 1) any person, whether born within or outside the Kingdom, whose father has Thai nationality, 2) any person, born outside the Kingdom, whose mother has Thai nationality if it does not appear there is a legal father or the father is stateless, 3) any person born within the Kingdom."<sup>8</sup> The last provision would allow second generation Chinese to become Thai nationals automatically. There are certain exceptions to this clause, which does not apply to persons born within the Kingdom of alien parents if either parent is: (1) the chief, or an official of a diplomatic mission; (2) the chief, or an official, of a consular mission, (3) an employee or expert of an international organization, (4) a related dependent member of the family or a servant who has come from abroad and lives with persons under (1), (2), or (3).<sup>9</sup> A more recent "Announcement of the Revolutionary Party," published in 1973, further amends the jus soli provision by withdrawing Thai citizenship from persons born in the kingdom of Thailand of alien parents who have received "permission to enter the kingdom temporarily or as in a special case," or who "have entered the kingdom of Thailand not in accordance with the law on immigration."<sup>10</sup>

An alien woman married to a Thai national is eligible for naturalization. According to Section 9 of the Nationality Act, "An alien woman married a Thai national who wished to acquire Thai nationality shall file an application with the competent officer . . . It shall be within the discretion of the Minister to grant or refuse permission to acquire Thai nationality." [sic]

According to Section 10, which deals with eligibility for naturalization: "An alien who meets all the following qualifications: (1) has become sui juris under Thai law and the law of his nationality, (2) is of good conduct, (3) has a substantial occupation, (4) has been domiciled in the Kingdom uninterruptedly until the date of application for not less than five years, (5) has such knowledge of the Thai language as may be required in the Ministerial Regulations, may apply for naturalization. These provisions do not apply to any person who has performed a distinguished service to Thailand, or who is the wife or child of a naturalized citizen, or is a former Thai national."<sup>11</sup>

Thai nationality may be revoked for a number of reasons. For example, a woman who marries an alien may take her husband's nationality and renounce her Thai nationality. A person who is of Thai nationality by birth, but whose father was an alien, or a person who acquired Thai nationality by naturalization may renounce Thai nationality, provided that he can prove that he may hold the nationality of his father or another nationality. In the case of a person who is of Thai nationality by birth, but whose father is alien, the decision to take the father's nationality must be made within one year of the date of his completing twenty years of age. A woman who has acquired Thai nationality by

marriage may have it revoked if it has been illegally acquired, if she has committed any act which affects the security of the State, or any act which is in conflict with "peace and order." A person of Thai nationality by reason of birth, whose father is an alien, may have his Thai nationality revoked if: "(1) he has lived in the country of his father's nationality or former nationality continuously for more than five years from the date of becoming sui juris, (2) there is evidence to show that he uses the nationality of his father or other nationality or is a partisan of the nationality of his father or other nationality, (3) he does any act which affects the security or conflicts with the interests of the State or is in contempt of the nation, (4) he does any act which conflicts with the peace, order, or good morals of the public."

The Minister is also empowered to revoke the citizenship of any person who acquired Thai nationality under false pretenses, or who committed any act which was in conflict with the public good, or who continued to use his or her former nationality.<sup>12</sup>

The cost of applying for naturalization is relatively high. The application fee is 5,000 baht per time, 2,500 baht per each child not sui juris of an applicant for naturalization, and 500 baht for each certificate of naturalization.<sup>13</sup>

There is a great deal of evidence that naturalization is available for those who chose to apply for it, and the second generation, jus soli provision in Thai law has automatically conferred Thai citizenship on a large percentage of the ethnic Chinese community in Thailand. It is, however, the case that three categories of citizen are tacitly distinguished under Thai law: native-born citizens of Thai parentage, native-born citizens of alien parentage, and naturalized citizens.<sup>14</sup> The implications of this distinction will become clearer as this discussion of the legal status of the ethnic Chinese in Thailand continues.

It is reported that with the establishment of relations with the PRC, the Chinese alien population will be given a choice to become citizens of the PRC or Thailand. They will not be permitted to retain Republic of China citizenship. This will affect approximately 300,000 Chinese. It is assumed that this policy will entail the instatement of some sort of expeditious naturalization procedure for those Chinese who opt to become Thai citizens.<sup>15</sup>

## NATIONAL SERVICES

The right to vote and candidacy for office are restricted to Thai who are citizens by birth, and who are of Thai parentage. Section 9 of a 1974 revision of electoral provides that in order for a person acquiring Thai nationality by naturalization to vote, he must have resided in the Kingdom of Thailand successively for a period of not less than ten years from the date of naturalization, and possess any one of the following qualifications: "(1) passing



the examination of not less than Mathayom six or the third year of secondary education according to the syllabus laid down by the Ministry of Education as equivalent thereto. (2) serving or having served the military service according to the law on military service. (3) being or having been a government official or official of the local government with a permanent position or salary for a period of not less than five years. (4) being or having been a member of the Changwat Assembly, the Municipal Assembly, the Sanitary Board, the Tambon Committee, a Kamnan or Phuyai Ban."<sup>16</sup>

According to the "Members of the House of Representatives Election Act, B.E. 2511," Section 16, "A Thai national whose father is an alien may be a voter only if he possesses one of the following qualifications: [see (1) through (4) above]."<sup>17</sup> It is conceivable that an ethnic Chinese who acquired Thai citizenship either through naturalization or on a jus soli basis would be eligible to vote in Thai elections, but it is clear that the right to vote is not granted to all citizens of Thailand. Similar restrictions appear to be made on access to political office, and eligibility for the National Legislature is limited to persons "of Thai nationality by birth,"<sup>18</sup> i.e. "pure" Thais.

Political parties are allowed in Thailand. Section 7 of the "Political Parties Act" states that: "Fifteen or more Thai nationals, who are not supporters of such form of government as is contrary to the democratic form of government headed by the King under the Constitution of the Kingdom of Thailand, who are not monks or novices, priests or clergy, whose age is not under twenty, and who have the desire to engage in political activities, may join as organizers of a political party, the policy of which shall not be prohibited by law or contrary to public order and good morals, and may send invitations to others who are qualified or who are not prohibited by aforesaid provisions to become members in their political party. When the number of the applicants for membership and the organizers of the political party totals to not less than five hundred, such a political party may be formed by registration with the Registrar at the Ministry of the Interior."<sup>19</sup>

There are restrictions made on the participation of aliens in political parties. Part II, Section 23 of the "Political Parties Act" states that: "No political party shall accept money, property, or any other benefit from (1) any person not being of Thai nationality, (2) a juristic person under the law of any other country which is conducting business or is registered as a branch office in Thailand, (3) a juristic person registered in Thailand if the percentage of the capital owned by aliens or if the percentage of the number of alien shareholders is more than twenty five, but even if the percentage exceeds twenty five, but does not exceed forty nine, an exception may be made by acquiring an approval of the Registrar in advance each time. (4) a juristic person whose purpose is to conduct its business for the benefit of aliens, or which has an alien as its manager or a member of the Executive Board of such a juristic person." Section 24 pro-

vides that: "No political party may accept an alien as its member or to allow him to hold any position in the party or to allow him to perform any act for the benefit of the party"; Section 25 states that: "No alien may become a member or hold any position in a political party, or to join in performing any act in the exercise of functions of a political party."<sup>20</sup>

The ethnic Chinese in Thailand are not legally blocked from participation in political parties, but according to one ethnographer, they prefer trade as an occupation, and think that "government work is the work of the Thai people."<sup>21</sup> One ethnic Chinese commented in an interview with the ethnographer that: "Chinese people have to do business because they have no land to till and no citizenship status or education to qualify themselves to work with the government."<sup>22</sup>

#### OCCUPATIONAL RESTRICTIONS AND LAND OWNERSHIP

Several "Occupational Restriction Acts" have been passed in Thailand, but these acts restrict occupations to Thai citizens, whether naturalized or native-born, and thus affect alien residents only. Complementary to these acts was the 1956 Vocational Assistance to Thai Act, which states that if more than ten workers are employed in certain trades, then at least 50% of the workers employed were to be Thai citizens. These workers could, of course, be Thailand-born Chinese.

The most recent Royal Decree stipulating occupations and professions prohibited to aliens lists thirty-nine restricted fields: (1) participation in construction or civil engineering; (2) designing or drawing architectural plans; (3) accountancy; (4) legal service; (5) clerical or secretarial work; (6) brokerage; (7) auction sale work; (8) front shop sale; (9) hawking of goods; (10) haircutting, etc.; (11) guide or tour conductor; (12) agriculture, animal husbandry, forestry or fishery, except work requiring specialized knowledge or farm supervision; (13) Niello work; (14)-(16) textile work; (17) dressmaking; (18) Thai type setting by hand; (19) lacquer work; (20) driving vehicles, except piloting aircraft internationally; (21) making Buddha image; (22) making rice paper by hand; (23) cigarette rolling by hand; (24)-(39) various sorts of small-scale manufacture; metal work, pottery, stone work, etc.<sup>23</sup>

The legal work necessary to acquire a work permit is complicated, and the regulations controlling licensing are strict.<sup>24</sup> The controls are justified on the grounds that the great number of aliens working in the Kingdom has adversely affected the labor market and living conditions of the Thai people. According to the "Announcement of the Revolutionary Party," No. 322, "It is deemed appropriate to stipulate the principle and extent of operation of aliens in order to protect the Thai people so that they have work to do."<sup>25</sup> As mentioned, these policies do not

affect the ethnic Chinese citizens of Thailand, who are allowed to maintain their position in trade and commerce so long as they are willing to become Thai nationals and adopt Thai names. As citizens, they are given equal economic opportunities.

Alien residents in Thailand are also denied the right to purchase or otherwise acquire land for any purpose. This restriction has been in effect since 1943. The Chinese frequently went through loopholes to acquire land, and the common solution was to rent land and own buildings. It is reported that in the 1950s, some officials required evidence of three generations of Thai ancestry from any person interested in purchasing government land, and a government housing project accepted applications only from persons born in Thailand.<sup>26</sup> Presumably ethnic Chinese citizens of Thailand would now be allowed to purchase land in Thailand, but this is a fairly recent development.

## EDUCATION

Chinese education in Thailand has been steadily declining since 1948. At that time, the military government headed by Phibun passed regulations which forced Chinese schools to adhere to private schools regulation, and a plan to reduce the number of Chinese schools was announced. Schools which did not comply with the regulations were closed, and "communist" teachers were screened out.<sup>27</sup>

The regulations enforced restricted the number of hours that could be devoted to Chinese instruction to six hours out of a twenty-eight hour school week. The Private School Act of 1936 provided that no subject could be taught in a foreign language without the approval of the Minister of Education. By 1939, it is reported that this clause was interpreted to restrict the teaching of Chinese to two hours per week in primary schools, and eighteen hours a week in secondary schools. Two other controls were also implemented. First, teachers in the private schools had to pass a Thai language examination. This control put an end to the large-scale importation of Chinese teachers from China, and promoted locally born teachers. Second, the content of instruction was more rigorously controlled. The Thai, like the Chinese, recognized the role of schools in imparting cultural values and patterns, and as barriers to assimilation. Finally, in 1947, Chinese secondary education was banned. Alternatives are, however, present for the Chinese community, which may elect to hire private tutors, or to form classes of less than seven students, independently taught, or to organize non-restricted night schools.<sup>28</sup>

## ETHNIC RELATIONS

Chinese assimilation in Thailand has become a well-established social pattern, and acculturation to Thai ways is common among



second and third generation Chinese. According to one author, the ease with which the ethnic Chinese have assimilated is related to a number of factors which distinguish Thai society from other Southeast Asian countries: "The absence of colonialism, the presence of a historical, literate civilization with direct affinity to Chinese civilization (the most important expression of which is Buddhism); similarities between the Thai and Chinese in physical appearance; relative economic prosperity; and low politicization."<sup>29</sup>

Third generation Chinese are generally acculturated to Thai ways. Such persons typically use Thai personal and family names, and are fluent in both Thai and their minority language. They predominate in business, and are represented in the medical, legal, and journalistic professions, and on university faculties. They are also found in small numbers in the bureaucracy, and together with the Thai perform a number of urban skilled or unskilled jobs.<sup>30</sup>

Status differences in Thai society are thought by Thais to exist between individuals rather than corporate groups, and in the strictest sense there are no social classes.<sup>31</sup> The ethnic Chinese, rather than forming an economic middle class, tend to range on a vertical continuum, along with Thais. One author has noted that "ethnic divisions if anything tend to be vertical rather than horizontal and, in Bangkok at least, fail to coincide with difference of economic function."<sup>32</sup>

Ethnic stereotypes do persist in Thailand. The ethnic Chinese are viewed as materialistic, and as imbued with a sense of their own cultural superiority. They are thought by the Thai to be "coarse and rough, and lacking in personal cleanliness." In the late 1950s, they were viewed as fair-weather citizens, with opportunistic double loyalties. The ethnic Chinese and the Thai can be contrasted along certain dimensions. The Chinese define social status in terms of wealth and business leadership, while for the Thai, prestige is gained through one's relation to royalty, bureaucratic positions, birth, and Buddhist service. For the Chinese, the family is the keystone of society, and the Confucian organization of the family is highly structured. For the Thai, the Monastic Order and the bureaucracy are more important than the family, which by comparison with the Confucian normative system is loosely structured.<sup>33</sup>

Though politically the ethnic Chinese are second-class citizens, they have fared extremely well in Thailand. The transition from an alien to a politically assimilated community was not altogether smooth, but it appears that much progress towards social integration has been made.

## FOOTNOTES

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7. *Ibid.*, pp. 17, 55.
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21. Punyothayau, *op. cit.*, p. 29.
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25. Announcement of the Revolutionary Party No. 322, op. cit., p. 41.
26. R. J. Coughlin, op. cit., pp. 139-41.
27. G. William Skinner, op. cit., pp. 368-70.
28. *Area Handbook for Thailand*, 1971, p. 59.
29. Ibid.
30. G. William Skinner, op. cit., p. 310.
31. R. J. Coughlin, op. cit., pp. 10, 197.



## LAOS

### OVERVIEW

The Chinese in Laos constitute a small minority in a country which is ethnically diverse. No complete census has been taken, but a 1966 estimate assesses the Chinese population to be 2.1% of the total population, now 3,100,000.<sup>1</sup> The ethnic Chinese constitute a high proportion of the urban population of Laos, which is one of the least urbanized countries in the world. They have prospered in trade and commerce, and until the introduction of American aid in 1958, ethnic Chinese businessmen dominated the markets.<sup>2</sup>

A number of Chinese came to Laos at the turn of the century as coolies, and stayed to build businesses, sometimes marrying Lao women. Assimilation and entry into the Lao elite was possible, and success depended upon acceptance of Lao culture and a mastery of French.<sup>3</sup> By 1943, 70% of the urban population was predominantly Chinese and Vietnamese, whose increased numbers accounted all but totally for the growth of towns. The Chinese came as merchants, petty traders, and in some cases coolies, and the Vietnamese as craftsmen, gardeners, or as technicians and administrators recruited by the French for colonial services.<sup>4</sup>

The Vietnamese were resented by the Lao as a result of their role as French colonial administrators, and many left in the period from 1943 to 1959, following the decline of French power. During this period, the Chinese prospered greatly in commerce, and the ethnic Chinese population increased seven-fold.<sup>5</sup> In July 1959, a Royal Ordinance restricted certain occupations to Lao nationals. Vietnamese were exempt from the provisions of this law, and the Chinese took the burden of its impact. The law was severely enforced, and the Chinese lost much ground to the Vietnamese.<sup>6</sup>

### CITIZENSHIP

The degree to which such laws affect the ethnic Chinese population must depend in part on the ease with which ethnic Chinese can become citizens. No statistics are available for the number of Chinese who have become naturalized Laotian citizens. The naturalization laws demand a relatively high degree of assimilation to Lao culture, and the naturalization process would presumably be facilitated for persons of alien parentage born in Laos.

In principle, Laotian citizenship is acquired by paternal filiation. According to the *Code Civil et Commercial mis à Jour 1968*, the following persons are citizens of Laos by birth:

- 1) The legitimate children born of a Laotian father or the ille-

gitimate children recognized by their Laotian father, whether born in Laos or abroad; 2) an illegitimate child, recognized by his Laotian mother; 3) a child born in Laos of unknown parents, unless he reclaims, on reaching adulthood, another nationality justified by the presumptions of his birth. A Laotian woman who marries an alien retains Laotian nationality unless she expressly declares, at the moment at which her marriage is celebrated, that she would like to acquire the nationality of her husband, in conformity with the dispositions of the national law of the latter. If the Laotian woman retains Laotian nationality, her children will have the right to an option for one or the other nationality in the year which follows their attaining majority. The alien woman who marries a Laotian has the same option for herself and her children, provided that the law of her country so permits. The above law does not apply to French citizens, or to their descendants.<sup>7</sup>

The formalities of naturalization, as laid down in Ordinance Royale No 284 of November 25, 1957, are as follows:

Chapter I, Article 1. No person may be naturalized unless he has reached the age of eighteen.

Article 2. No person may be naturalized unless he has a good life and morals, and has not been subject to condemnation for an infraction of the common law sanctioned in Lao law by either criminal punishment or correctional imprisonment.

Article 3. No person may be naturalized unless he demonstrates his assimilation to the Lao community, notably by a sufficient knowledge of the Lao language equivalent to C.E.P.E. [Certificate of Primary Education?]

Article 4. No person may be naturalized

1. who has been recognized to be in poor mental health
2. who, given his state of physical health, would be obliged to become either a cost or a danger to the collectivity.

The intentions of this article are not applicable to the alien whose infirmity or illness was contracted in the service or in the interest of Laos.

Article 5. No person may be naturalized who cannot demonstrate his habitual residence in Laos during the ten years which preceded the writ of his application.

Chapter II of this Ordinance deals with the formalities of the naturalization process: the investigation of the applicant and his family, the supporting documents required, the cost of naturalization procedures (10,000 Kips).

Chapter III of the Ordinance deals with special arrangements which may be made for exceptional cases:

Article 23. The time of habitual residence in Laos alluded to in Article 9 is reduced [from ten years] to five years:

1. for the alien born in Laos or married to a Laotian
2. for any person who holds a diploma of advanced studies, given by the Buddhist teaching establishment of Laos (schools of Pali)
3. for any person who has been a monk for at least three years
4. for anyone who has rendered important services to Laos, such that they bring distinguished scientific or literary talents, duly recognized by the Department of National Education and Fine Arts, or the introduction of industry or useful inventions recognized by the Minister of Commerce and Industry.

Article 24. The following persons may be naturalized without the condition of residence alluded to in Article 5 [ten years' residence] (from the 1959 Amendment):

1. The wife and any adult children of a naturalized alien;
2. The alien who in time of war contracted a voluntary engagement in the Laotian army and to whom the title of "Ancient Combattant" was awarded, in conformity with the regulations in force;
3. The alien who has rendered exceptional services to Laos or anyone for whom naturalization presents for Laos an exceptional interest (national aliens belonging to the Thai race or to one of the ethnic groups existing in Laos to whom the right of Lao citizenship has been extended).

Title II of this Ordinance stipulates that Laotian citizenship may be lost by any individual who has acquired that status during the period of ten years following the acquisition of Laotian citizenship. Citizenship may be forfeited if the individual is condemned for a variety of crimes, if he has avoided service in the army, or has rendered service to a foreign state to the profit of that state, but incompatible with the title of Lao and prejudicial to the interests of Laos. Loss of citizenship may be extended to include the wife and minor children of the party concerned, provided that they are of alien origin.<sup>8</sup>

Naturalization is not a simple process, but is certainly feasible, in particular for the second generation of alien Chinese born in Laos. A degree of assimilation to Lao culture is required, but it is impossible to evaluate the stringency of the standards. It may be assumed that the Chinese, whose cultural tradition has been strongly influenced by Buddhism, would enjoy a certain advantage in Laos, where Buddhism is the State religion.

#### NATIONAL SERVICES

The Laotian Civil Service is in no way restricted to any one class or race of persons. Such restrictions as exist are



customary, and have historical roots in long-existing occupational differences. In Laos, as elsewhere in Southeast Asia, the Chinese are primarily urban, and engaged in trade and commerce, with little interest in service in the armed forces, police, or civil service.<sup>9</sup>

In Laos, as in Cambodia, restrictions have been made on naturalized citizens holding office. Law No. 57/12 of March 8, 1967 provides that the naturalized alien enjoys all the civil and political rights attached to the status of Lao citizen. However, he cannot be invested in an elected office until ten years after naturalization has been granted.<sup>10</sup>

Apart from this restriction, Laotian electoral law provides that those eligible to run for office are: persons of Lao nationality of both sexes, who have the status of electors, are at least 30 years old, and have at least a certificate of primary education or a diploma of instruction in Pali at the ninth degree. It is not clear whether or not a legal distinction can be made between the status of Lao citizen and Lao national. It would appear that the electoral law could be interpreted to exclude from office citizens of Laos who were not nationals by birth, although the placing of a ten-year "probation" period on the naturalized citizen would indicate that no explicit dichotomy is intended.<sup>11</sup>

#### OCCUPATIONAL RESTRICTIONS AND LAND OWNERSHIP

Land ownership is not subject to severe restrictions of any sort. According to Law No. 45 of February 17, 1970, Article 7, "The rights acquired in material property, mobile or immobile, and of legal exercise of an economic activity is guaranteed to physical and moral persons without discrimination either between alien nationalities, nor between aliens and citizens, with the exception of the arrangements of article 6 below. [This article refers to Law No. 49/10 of 21 December 1959, the text of which was unavailable in translation.]<sup>12</sup> Law No. 45 would imply that while laws made in the period from 1957 to 1959 which restricted certain occupations to Lao nationals are likely to have remained in force, the political trend has been away from such restrictions on occupation and land ownership. The work of aliens in Laos is regulated according to the conditions of entry, of residence, and departure. Such laws as do remain which discriminate against alien workers are undoubtedly designed to place pressure on alien workers to assimilate and become citizens of Laos, rather than to legislate them out of certain occupations.

#### EDUCATION

In 1969, only 7% of the total population of Laos was enrolled in schools.<sup>13</sup> The national goal is to standardize education in the national language, while allowing ethnic minorities to teach

in their own language. According to a Royal Decree of 1962, the official position is that "Education is at the service of the whole Lao community. It is not made to perpetuate privileges, but on the contrary its national role will be to let the most talented children, whatever their extraction, acquire through their education positions of responsibility which they can best fulfill for the development of the country. A special effort will be made to assure a real equality of access for women, villagers, and ethnic groups. Whenever possible, ethnic minorities will receive their first education in their own language parallel to the national language."<sup>14</sup>

The Pathet Lao report from Northern Laos that the number of primary and secondary schools has increased greatly in this area, and that the Lao language is being used as a teaching medium in all schools. If Chinese is taught in this area, it is not with official acknowledgement.<sup>15</sup>

No specific provisions are made in Laotian law which legislate against the teaching of Chinese, but certainly any ethnic Chinese alien who wished his children to adopt Laotian citizenship would be well advised to send his children to Laotian schools in order to meet the requirements for naturalization.

#### ETHNIC RELATIONS

Anti-Chinese sentiment, if it exists at all in Laos at the present time, is not strong, and the Vietnamese rather than the ethnic Chinese have borne the brunt of anti-colonial sentiment. Laos is not viewed by the overseas Chinese as a country with particular economic promise, and has a very small population of ethnic Chinese. This population has been subjected to a certain degree of legislative restriction, but this legislation has been directed against alien residents in Laos rather than against naturalized citizens. Naturalization is not a simple procedure, and there are no statistics available which would allow an evaluation of the degree and ease of naturalization. The requirements are certainly less stringent for the alien born in Laos, for whom residence requirements are reduced, and who in addition would have greater ease in acquiring the language skills and degree of assimilation required. It would appear that relations between the ethnic Chinese and the ethnic groups of Laos are, on the whole, amicable.



## FOOTNOTES

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## VIETNAM

### OVERVIEW

Long before the Vietnamese settlement of South Vietnam, merchants from Southern China had established trade relations with the Cham and Khmer populations who inhabited that region. From the end of the seventeenth century, the Chinese settled in the Mekong Delta. They brought commercial skills and interests with them, extending the "Nanyang" trade which had been going on between the coastal cities of China and countries to the south for several centuries. Their Vietnamese overlords tolerated them, and allowed them freedom of movement, while seeking to control the movements and activities of their Vietnamese subjects.<sup>1</sup>

During the colonial period, French regulations similarly "discouraged Vietnamese participation in commerce while continuing to give free reign to Chinese."<sup>2</sup> During this period, the commercial strength of the Chinese was based on the marketing of rice and general goods. They controlled the total distribution system between the large French trading companies and the Vietnamese peasants. With the departure of the French, the degeneration of rural security, and the advent of the Americans, Chinese merchants in many cases abandoned their activities in rural areas for the more lucrative and safer opportunities in higher-level marketing centers. In South Vietnam, they expanded into importing and industrial activities.<sup>3</sup> It is estimated that though the ethnic Chinese constituted only 5.3% of the population of South Vietnam, 70%-80% of the commerce of the country is controlled by Chinese merchants.<sup>4</sup>

The policy of both the North and South Vietnamese governments has been to promote permanent commitment to Vietnam on the part of the Chinese community. In South Vietnam, this took the form of encouraging social and political assimilation by a series of legal moves designed to encourage aliens to assimilate, or to leave. In North Vietnam, the overseas Chinese community has been allowed to retain its national identity, while at the same time the Party and the government are actively involved in controlling Chinese schools, associations, etc., promoting a socialist commitment to the "construction" of Vietnam, and discouraging private enterprise.

The following description of the legal and customary status of the ethnic Chinese population of Vietnam draws on the recent history of the "Chinese problem" in South Vietnam, as well as statements by the government of the Democratic Republic of Vietnam which might provide guidelines to future policies. The Chinese, as a commercial class, will undoubtedly be affected adversely by

any major reorganization based on the principles of a socialist economy. They have in the past been dealt with by North Vietnam as a distinct nationality, the "Overseas Chinese of Vietnam," and a number of steps have been taken to ensure that they become "good socialist members" of Vietnam.

## CITIZENSHIP

The government of South Vietnam, in an attempt to integrate and control the Chinese community, passed an ordinance on August 21, 1956, which conferred Vietnamese citizenship automatically on all ethnic Chinese born in Vietnam. This law was to be retroactive.<sup>5</sup> Such persons were not permitted to renounce Vietnamese citizenship, and if born in Vietnam but residing elsewhere, were still considered to be citizens of Vietnam. It was forbidden for parents to give their children foreign-sounding names, or for any Chinese born in Vietnam to continue to use names and surnames not conforming to the script and grammar of Vietnamese. Vietnamese of Chinese origin were to benefit from the same rights and have the same obligations as Vietnamese by birth, including obligatory military service.<sup>6</sup>

The enactment of these laws provoked extreme surprise from the ethnic Chinese population, and was met by inertia and passive resistance. The government response was to apply police pressure in urban areas to persuade recalcitrants to apply for their naturalization.<sup>7</sup> Economic restrictions were made on alien residents in South Vietnam, which were intended to place further pressure on the ethnic Chinese community to become naturalized citizens. After lengthy negotiations with the Republic of China, immigrants were given a choice of naturalization by administrative procedure, by judicial procedure, or else changing their occupations. Locally born Chinese were definitely considered to be Vietnamese, but those who desired to conserve Chinese nationality were given the opportunity to emigrate to Taiwan.<sup>8</sup> 50,000 persons elected to emigrate, but negotiations between Taiwan and South Vietnam broke down, and only 532 persons actually departed. In the end, nearly half a million ethnic Chinese became naturalized citizens of South Vietnam. Before the laws were enacted, there had been 620,858 ethnic Chinese in South Vietnam; by 1968 only 123, 638 of these retained Chinese nationality.<sup>9</sup>

Detailed information on citizenship regulations in the Democratic Republic of Viet-Nam is not available, but the general principles are set out in the 1960 Constitution. Chapter I, Article 3 of the Constitution states that: "The Democratic Republic of Viet-Nam is a single multi-national state. All the nationalities living on Vietnamese territory are equal in rights and duties. The State has the duty to maintain and develop the solidarity between the various nationalities. All acts of discrimination against, or oppression of any nationality, all actions which undermine the unity of the nationalities, are strictly pro-



hibited. All nationalities have the right to preserve or reform their own customs and habits, to use their spoken and written languages, and to develop their own national culture. Autonomous zones may be established in areas where people of national minorities live in compact communities. Such autonomous zones are inalienable parts of the Democratic Republic of Viet-Nam. The State strives to help the national minorities to make rapid progress and to keep pace with the general economic and cultural advance."<sup>10</sup> A reading of translations of North Vietnamese statements of the last several years makes it apparent that the Chinese community is dealt with not as an ethnic minority, but as a Vietnamese nationality. It is stressed in the literature that the Han Chinese language is a national language which should be taught, and the Overseas Chinese are allowed to retain Chinese names.<sup>11</sup>

In principle, all citizens of the Democratic Republic of Viet-Nam are equal before the law. Article 23 of the Constitution states that "Citizens of the Democratic Republic of Viet-Nam who have reached the age of eighteen have the right to vote, and those who have reached the age of twenty-one have the right to stand for election, whatever their nationality, race, sex, social origin, religion, belief, property status, education, occupation, or length of residence, except insane persons and persons deprived by a court or by law of the right to vote and stand for election. Citizens serving in the army have the right to vote and stand for election."<sup>12</sup>

#### NATIONAL SERVICES

The citizenship requirements for holding office in South Vietnam, as laid out in Electoral Law, were as follows: Candidates for office (1) "Must have Vietnamese citizenship since birth, or have acquired it at least seven years or recovered it at least five years previous to the date of election. Vietnamese nationality must be the only one at the present time." (2) Must have been at least twenty-five years only on election day, and enjoyed the full rights of citizenship; (3) Must have complied with military draft regulations; (4) Must have had uninterrupted residence in Vietnam for one year prior to election day.<sup>13</sup> These requirements applied to both the House of Representatives and the Senate; eligibility for the Presidency required Vietnamese citizenship from the day of birth, and continuous residence in Vietnam for at least ten years up to the date of the election.<sup>14</sup> These regulations would not pose unreasonable obstacles to ethnic Chinese who chose to run for political office, though a great number may have been disqualified on the grounds that they failed to comply with military draft regulations, since draft evasion was reportedly a common practice for the ethnic Chinese.

Barriers to service in the armed forces, police, civil ser-

vice or restrictions on political participation for the ethnic Chinese in Vietnam would be customary rather than legal, and are the products of occupational patterns which have historical roots. Just as the Chinese have long been dominant in the market, the Vietnamese hold a legacy of civil control from the French colonial period.

In North Vietnam, the government has made a number of statements encouraging the Overseas Chinese to be "good socialist members," and "real masters" in the land--not simply "guest residents." They are encouraged officially "to conscientiously perform their own citizen's rights and duties, and enthusiastically participate in preparing and casting ballots." Stress is often placed on the number of leadership positions in the party to which Overseas Chinese have been elected, and on their accomplishments in a diverse number of fields, including military accomplishments.<sup>15</sup> Until recently, the Chinese communities of Haiphong and Hanoi were allowed to form Overseas Chinese Associations under the leadership of the Lao Dong Party, and were able to print newspapers in Chinese.

#### OCCUPATIONAL RESTRICTIONS AND LAND OWNERSHIP

In September 1956 the government of Diem took energetic measures against alien residents in South Vietnam, and forbade them to exercise a number of professions. These measures did not have as their end the legislation of the Chinese out of their position of economic control, but were intended to force the ethnic Chinese to become naturalized Vietnamese citizens.<sup>16</sup> A number of ethnic Chinese who refused to accept Vietnamese citizenship were forced to close their businesses, but close to half a million ethnic Chinese adopted Vietnamese citizenship in order to protect their economic interests.<sup>17</sup>

The principal law involved was Ordinance No. 53 of 6 September 1956, which forbade to all alien persons residing in or having headquarters in South Vietnam the exercise of the following occupations: 1) trade in fish or meat; 2) grocery stores or sale in bazaars; 3) commerce in charcoal and firewood; 4) commerce in combustible liquids; 5) management of popular religious sites; 6) commerce in textile products; 7) hardware trade or trade in metal; 8) husking, rice processing and the working of paddy fields; 9) commerce in grains; 10) transportation by water or land; 11) brokerage, commission agent, or customs agent. A delay of six months was allowed to persons engaged in the first seven groups of occupation, and of one year to the other groups. As discussed above, the result was not legislation of the ethnic Chinese out of business, a result which would have seriously undermined the Vietnamese economy, but the naturalization of the great majority of ethnic Chinese.<sup>18</sup>

As of 1974, the ethnic Chinese population of South Vietnam remained in control of commerce and trade. The major occupations of the ethnic Chinese were: rice processing, textile manufacture, light industry, retail trade, wholesale business (import/export), the bazaar trade, transportation, some agriculture, and banking.<sup>19</sup> In the past, there have been barriers to Vietnamese entry into commerce. The Vietnamese have lacked experience in this field, and have had limited opportunity to acquire it. Competition with the long-established trade networks of the Chinese was difficult, and it has been said that the Vietnamese lack the "perseverance" necessary to work up from the bottom.<sup>20</sup>

In the Democratic Republic of North Vietnam, as discussed above, the government appears to have actively promoted Chinese involvement in "socialist construction" by directing the "work orientation" of the Chinese. The attempt has been made to reform Chinese capitalists by programs of public-private joint ownership, and the party's policy has been one of "peaceful transformation."<sup>21</sup>

## EDUCATION

In 1956, Chinese schools in South Vietnam, which had previously been tolerated with a minimum of control, were declared to be irregular and illegal. The following restrictions were placed upon them: 1) The director of the school must have Vietnamese citizenship; 2) The program of teaching must be that of private Vietnamese schools; 3) The language of teaching must be Vietnamese. The teaching of Chinese as a foreign language was not forbidden. Just before the school year began, the Director of Schools decided to close all Chinese schools, and to convert them into Vietnamese schools. The government attempted to implement this conversion in an unrealistically short period of time, as part of the massive effort to assimilate the Chinese community into the local population. The following year, after much effort and difficulty, the Chinese schools were re-opened as "transformed" schools.<sup>22</sup>

Vietnamese is the language of education in the Democratic Republic of Vietnam as well. The people's right to "speak, write, and study in their own language" is considered integral to the "broader struggle for independence and liberty."<sup>23</sup> The issue of the use of Vietnamese as a national language is better understood in historical context. Under the Ngo, Dinh, Early Li and Tran dynasties, Chinese was used as the official script, and education was not carried on in Vietnamese, although some "progressive intellectuals" did write literature in Vietnamese. Under French rule, French was used as the teaching medium, and was spoken in the upper strata of society. Many educators in both North and South Vietnam have argued for the "enrichment" of Vietnamese with technical and scientific vocabulary as a means of promoting Vietnamese nationalism, while at the same time recognizing the importance of teaching foreign languages.<sup>24</sup>



Schools for the Overseas Chinese exist in North Vietnam, under governmental direction. A series of reforms of the curriculum have been implemented which ensure that Chinese children are educated "according to the policy of the party." In Haiphong, for example, the following policies were being followed by the Board of Education in 1973, who at that time wished to:

(1) Reaffirm that Chinese schools are a constituent part of the Vietnam socialist education system. They are schools for educating the children of overseas Chinese under the leadership of the Vietnam Lao Dong Party and Government. They are to carry out the education policy of the Party, and observe the unified teaching regulations of the Ministry of Education for the purpose of bringing up a new generation of overseas Chinese according to the party's policies concerning overseas Chinese.

(2) Reaffirm that the Vietnam language is the primary language to be taught in Chinese schools. Revise the teaching material for the Han (Chinese language) and reaffirm that the Han language is a national language which should be given proper attention. The Han language standard set for various grades of children should be met.

(3) Initiate reform measures and create facilities for all Chinese primary schools to become 4-year schools like all other primary schools in the country.

(4) Gradually integrate Chinese children into Vietnam schools but group them into separate classes so that they may study together with their fellow Vietnamese students.<sup>25</sup>

The government of North Vietnam appears to be concerned that its students have a research ability in a number of foreign languages, and in light of this are concerned that Chinese students in Vietnam attain a high level of competency in the Han Chinese language.

#### ETHNIC RELATIONS

The Chinese and the Vietnamese have had a long history of interaction, and it has been axiomatic that the Chinese assimilate easily into Vietnamese society, which has borrowed from and shared many features with Chinese culture. More recently, the Vietnamese of South Vietnam have shown an interest in commerce as a means to upward mobility, and as an alternative to the pattern which had persisted since the French colonial era, in which the Chinese controlled commerce, while the Vietnamese were given opportunities in agriculture and government services. The recent takeover of South Vietnam, and the implementation of socialist reforms will undoubtedly affect the ethnic Chinese as a commercial class profoundly, but it is too early to tell what form these changes will take.

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6. Maw-Kuey Tsai, *Les Chinois au Sud-Vietnam*, 1968, pp. 56-57, my own translation.
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## CAMBODIA

### OVERVIEW

The ethnic Chinese in Cambodia constitute only 7% of a total population of 6,250,000,<sup>1</sup> and have historically concentrated in the fields of trade and commerce. The Chinese concentration in the commerce of Cambodia had its origin in a fifteenth century burgeoning of foreign trade, and at that time, most of both internal and external trade was in the hands of the Chinese. During the period of French rule, which lasted from 1884 to 1953, the Chinese were perceived by the French as economic competitors, but were nonetheless utilized as economic middlemen. Their legal status was ambiguous, and assimilation became difficult for the ethnic Chinese. The French restricted them with prohibitions on land ownership and the practice of certain occupations. The Chinese emerged from this period as both a distinct ethnic group and the commercial middle class of Cambodia.<sup>2</sup>

As of 1967, it was estimated that 80% of the ethnic Chinese were merchants, and 90% were in commerce. They were in control of almost all internal trade and a substantial portion of manufacture, and had a commercial involvement in rice.<sup>3</sup> The government has, however, recently followed a policy of trade nationalization, and it has been observed that "the future of any sizeable Chinese commerce and industry [in Cambodia] is not too bright."<sup>4</sup>

In light of the change in government which occurred in April of 1975, the legal sources referred to in the following discussion are now outdated. No communications are available on the present government's policy toward the Chinese, though it may be assumed that a number of Chinese have been affected by the new government's having driven out city dwellers into the countryside. The following discussion reflects the situation in Cambodia prior to the change in government, and is written in present tense as a narrative convenience. It is hoped that such a discussion will clarify the recent past and will serve as a background to the study of future trends and developments.

### CITIZENSHIP

The acquisition of Cambodian citizenship requires a certain degree of assimilation to Cambodian society. Citizenship is regulated by Kram No. 913-NS of November 30, 1954. According to this law, the status of citizen assures to Cambodians political rights and some civil rights refused to aliens. Cambodian citizenship is defined as "a bond both spiritual and political which unites a physical or moral person to the Cambodian State . . . The law does not recognize, either for the acquisition of citizenship and

its loss, or in the exercise of political and civil rights, any distinction founded on the racial origin, real or supposed, of its citizens, or on their philosophical or religious opinions." Cambodian citizenship is transmitted 'jus sanguinis,' in the instance in which at least one of the parents has that status, regardless of the place of birth. Article 22 of Kram No. 913-NS stipulates that the legitimate child of a Cambodian father or mother, or the illegitimate child whose filiation with a parent who has Cambodian citizenship is established, is himself a Cambodian.

Cambodian citizenship is also transmitted on a 'jus soli' basis, and birth in Cambodia confers, in certain cases, Cambodian citizenship. Article 22, paragraph two, states that the following are Cambodian as a result of their birth in Cambodia: 1) the child born of a father who was himself born in Cambodia; 2) the child born of a mother who was herself born in Cambodia; 3) the child born of unknown parents. Any newborn child who is found in Cambodia is accounted to have been born in Cambodia. The child born in Cambodia after the 13th of November, 1954, will be Cambodian by law, no matter what the nationality of his parents, if his father or mother was born in Cambodia.

The alien woman who marries a Cambodian takes the citizenship of her husband; if a Cambodian woman marries an alien, she conserves her status. [Regulations for the renunciation, the reclaiming, the loss, and the forfeiture of Cambodian citizenship are reviewed.]<sup>5</sup>

Naturalization is regulated by Kram No. 904-NS of September 27, 1954, and 357-NS of October 1959. Naturalization is not a right, but constitutes a favor which must be requested, and which may by discretion be refused. The conditions of naturalization, as summarized in *Droit Civil Khmer*, are as follows:

1. The person must not be in a situation in which the claim to Cambodian citizenship may be made;
2. The person must be of good life and morals;
3. (new) The person must know how to speak Cambodian fluently, and must demonstrate a sufficient assimilation to the customs, morals, and tradition of Cambodia;
4. The person must demonstrate residence on Cambodian territory during the five years which preceded the writ of the request;
5. The person must reside in Cambodia at the time of the writ of the request;
6. The person must not constitute by either his physical or mental state a danger or an expense for the Nation.

The term of residence of five years is reduced to two years:

1. For all aliens born in Cambodia;
2. For all aliens married to a Cambodian woman.



Any person who has rendered important services to the Nation may also be naturalized. Such services might be the introduction of new industry to Cambodia, or of useful inventions, or in brief, any exceptional services rendered by a person, the naturalization of whom would present for Cambodia an incontestable interest.<sup>6</sup>

Under Cambodian law, naturalization procedures are expensive. The third generation 'jus soli' provision facilitates matters for the ethnic Chinese who have been long-time residents of Cambodia, and second generation aliens, born in Cambodia, have slightly less stringent requirements to meet than immigrants to Cambodia. The Cambodian laws are consistent with the Cambodian philosophy of citizenship, which views the status of citizen as a spiritual and physical bond uniting persons to the State, and with the presupposition that assimilation to Cambodian society is a prerequisite for the adoption of citizenship.

Such legal discriminations as exist in the Civil Code are applicable to aliens residing in Cambodia. Their access and stay is regulated, and eighteen professions are prohibited to them. The regulations of the Civil Code are applicable to them, but they are not eligible to be voters, nor may they acquire urban or rural property. Expulsion is at any time possible.<sup>7</sup>

#### NATIONAL SERVICES

Title II, Article 3 of the Constitution states that "All Cambodians have equal access to public employment without preference other than their own merits or competence."<sup>8</sup> The Civil Service Law of 1953 further states that no candidate can enter the cadres of the Kingdom's Administration without having proven: 1) that he is of Cambodian nationality; and 2) that he is at least eighteen years old and not over twenty-five years old. Exception is made for students with a diploma from the Higher Educational System, who may qualify until they are thirty, and former servants who served under the French Union. Further requirements of fitness must be met.

Ouellette and Murphy, in their study of the Khmer Civil Service, have commented that while there "is no discrimination per se against other races, nationalities, or religious groups," the predominant requirement "imposes a de facto limitation on other ethnic groups in Cambodia which are not of Cambodian nationality . . . Chinese and Vietnamese born in Cambodia are not citizens until they request it to be granted," and it is usually approved. But the "nationality barrier" is not necessarily removed for naturalized citizens. Some may be employed, but it is more difficult for them, since the primary criteria for a civil service job remains officially "Cambodian nationality," and this is not always interpreted as equivalent to Cambodian citizenship.<sup>9</sup>

Service in the armed forces is a different matter. According to the Constitution of the Khmer Republic, Chapter II, Article 21, "It shall be the duty of every citizen to respect the law, defend the fatherland, and come to the aid of the State. Every citizen must perform compulsory military service as prescribed by law."<sup>10</sup>

The regulations pertaining to elections and eligibility for public office are explicit in distinguishing natural-born citizens from naturalized citizens. According to the Constitution, Chapter II, Article 10, "All citizens of both sexes who have attained the age of eighteen years shall be eligible to vote," and "All restrictions shall be provided in the electoral law."<sup>11</sup>

Electoral law provides that all Cambodian citizens of both sexes, who are at least twenty-five years of age at the date of closure of the electoral list, will be eligible to vote. Article 12 provides, however, that while the same requirements hold for Candidates, Cambodian citizens who have obtained their citizenship by reclaiming it or by naturalization less than ten years previously cannot pose their candidacy for the National Assembly.<sup>12</sup>

Further restrictions are made in Khmer law. For example, service in the Constitutional Court is restricted to "Distinguished Khmer individuals,"<sup>13</sup> and service on a jury is limited to Cambodians who enjoy all their civil, civic, and political rights, a limitation which would exclude naturalized citizens who had obtained their citizenship less than ten years previously.<sup>14</sup> The President of the Republic, according to Chapter III, Article 25 of the Constitution, must be a Khmer national by birth, and must be born of parents who are Khmer nationals.<sup>15</sup> The latter requirement would exclude from eligibility the third generation descendants of immigrants, who acquire citizenship on a 'jus soli' basis. It would appear that ethnic Chinese citizens, unless well assimilated into Cambodian society, are in many ways second-class citizens.

#### OCCUPATIONAL RESTRICTIONS AND LAND OWNERSHIP

The ethnic Chinese population of Cambodia has been directly affected by the government policy of Nationalistic Socialism. The principles on which this policy rests are laid out in the Constitution of the Khmer Republic. Chapter II, Article 15 states that: "The State shall seek to improve the condition of the less favored social and occupational groups in order to ensure them a standard of living compatible with human dignity." Article 16 states that: "The State shall protect the freedom of enterprise in the artisan trades, agriculture, commerce, and industry. It has a duty to regulate that freedom with a view to coordinating the national economy for social ends and preventing monopolies or any attempt at monopoly in commerce and industry."<sup>16</sup>

In April, 1957, a law was enacted forbidding foreign nationals to engage in eighteen specified trades. These occupations are: 1) customs agent; 2) boat consignee or shipping agent; 3) intelligence agent or private police; 4) immigration or emigration agent; 5) director of an employment agency; 6) licensed general dealer; 7) arms and munitions merchant; 8) maker or dealer of private radio sets or parts for these sets; 9) printer; 10) hairdresser for men, either as employer or employee; 11) second-hand dealer or moneylender; 12) river or coastal ship's pilot; 13) jeweller or goldsmith, either as employer or employee; 14) chauffeurs of autos, taxis and transport vehicles; 15) long-shoremen; 16) woodcutter; 17) grain merchant; 18) salt dealers.<sup>17</sup> Widespread unemployment resulted from the enforcement of this Act. A relief fund was set up, and funds donated by the PRC were distributed.<sup>18</sup> Willmott comments that these alien restrictions were part of a process of "nationalizing" going on in Southeast Asia during this period in the 1950s, and that in practice, the prohibitions have made little difference to the ethnic Chinese community. Members of this community have the options of attempting to acquire citizenship, establishing themselves in new occupations, or operating their businesses behind a "dummy" front.<sup>19</sup> The ethnic Chinese community was, however, seriously affected by the nationalization of foreign trade in 1964. The import-export business had previously been predominantly controlled by Chinese.<sup>20</sup> The Chinese reaction to this has been to find new areas for capital investment, but it has been commented that the future of Chinese commerce and industry, in the light of the policy of trade nationalization, is not too bright.<sup>21</sup>

Alien persons residing in Cambodia are forbidden to own urban or rural property.<sup>22</sup> Otherwise, the regulations governing the acquisition of property are set out in the Constitution of the Khmer Republic. Chapter II, Article 14 states that: "The State shall recognize the right of private property. It shall encourage citizens to acquire property. Any violation of the right to hold property shall be forbidden except in cases of public necessity as established by law. In such cases the owner shall be entitled to a just and equitable indemnity beforehand."<sup>23</sup> While Cambodian law makes a clear distinction between natural-born and naturalized Cambodian citizens, there is no report of any discriminatory distinction being made with regard to the ability to own or rent land.

## EDUCATION

According to Chapter II, Article 19 of the Constitution, "The State shall ensure all citizens the right of education. Basic education shall be compulsory and free."<sup>24</sup> As of 1966, it appears that primary education was public, while secondary education was both public and private. Chinese schools have been closed in Cambodia, and Kram No. 284-NS of 30 October 1958, dealing with private schools for aliens, states that "The teaching



of the Cambodian language is obligatory in alien private schools in Cambodia. The schedule of teaching shall be determined by the Minister of National Education."<sup>25</sup> Restrictions on the teaching of Chinese are consonant with a 1959 ruling which required that Cambodian citizens adopt Khmer customs, and, for example, contribute to the wat [temple] and support the Buddhist monks.<sup>26</sup>

#### ETHNIC RELATIONS

On the whole, Khmer-Chinese relations can be characterized as cordial. Many Chinese have totally assimilated to Khmer culture, as it has historically been the case that the barriers to assimilation are low. Cambodia has not experienced the anti-Chinese effects of a nationalistic movement, and the Vietnamese and Indian populations, rather than the ethnic Chinese, have borne the brunt of proto-nationalistic ideologies. Certain restrictions have been placed on the Chinese community: Chinese schools have been closed, and Chinese political activities have been limited, as is the case everywhere in Southeast Asia.<sup>27</sup>

In Cambodia, an ethnic Chinese may be defined as any individual who supports or participates in some or all of the Chinese associations available to him.<sup>28</sup> The ethnic Chinese are said to be distinguished from the Khmer by their physical appearance, their dress, their temperament, and their religious behavior (the Chinese practice a syncretic religion which has incorporated aspects of Mahayana Buddhism, whereas the Khmer practice Theravada Buddhism). Language is not a sure indication of ethnic differentiation, for the Chinese are often multilingual.<sup>29</sup> The legal pressures outlined above have supported assimilation to Cambodian society, and do not appear to have been met with a great deal of resistance from the ethnic Chinese community.

## FOOTNOTES

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3. Ibid., pp. 10, 64.
4. Wee Mon-Cheng, "The Future of the Chinese in Southeast Asia as Viewed from the Economic Angle," 1972, pp. 7-8.
5. Marcel Clairon, *Droit Civil Khmer* (3<sup>e</sup> edition), 1961?, Chapter III, my own translation.
6. Ibid., Chapter IV, my own translation.
7. Ibid., Chapter II, p. 23, my own translation.
8. G. Thomas Bowen, *Constitution of the Khmer Republic* (translated by the Division of Language Services, U.S. Department of State), issued September 1972.
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13. Bowen, op. cit., pp. 21-22.
14. Cambodia: *Code de Procedure en Matiere Civile*, 1965, Kram No 320-NS du Juin 1959, p. 9, my own translation.
15. Bowen, op. cit., p. 7.
16. Ibid., p. 5.
17. 1956 Immigration Act, Kram No 83-NS, as cited in W. Willmott, op. cit., p. 45.
18. Victor W. W. S. Purcell, *The Chinese in Southeast Asia*, 1965, pp. 220-21.
19. W. Willmott, op. cit., pp. 46-47.
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21. Wee Mon-Cheng, op. cit.
22. Clairon, *Droit Civil Khmer*, Chapter III, my own translation.
23. Bowen, op. cit., p. 4.
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25. "Ecoles Privées," Kram No 284-NS du 30 Octobre 1958, in *Recueil Judiciaire*, Année 1959 No. 16, 1er Trimestre, my own translation.

26. W. Willmott, op. cit., p. 39.
27. Gerald Alan McBeath, *The Political Integration of the Philippine Chinese*, 1973.
28. W. Willmott, op. cit., p. xiii.
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## MALAYSIA

### OVERVIEW

The Federation of Malaysia is a highly heterogeneous entity created by the association of many diverse geographic, ethnic, religious, and ideological elements. The Chinese have been challenged because they are "foreign" and have perpetuated a distinct way of life, but Malaysia is committed to a large measure of cultural pluralism and has no choice but to integrate Chinese contributions. Malaysia cannot be described ethnographically as a Malay nation: the population of the over three million ethnic Chinese alone constitutes 35.1% of the total population of 9,435,000.<sup>1</sup> Malaysia is, in effect, "several societies welded under British rule into a high interdependent social, economic, and political complex."<sup>2</sup>

Under British colonial rule, the ethnic Chinese had no share in the administration of the country. The Chinese preferred commercial enterprise on the whole to the "drudgery" of the civil service, and, as is the case in most of Southeast Asia, concentrated in the fields of trade and commerce. In part this is a result of British policies, in which a native/alien distinction was made between the ethnic groups. The British chose to treat Malays as indigenous peoples with a prior claim on the government and other groups were accorded lesser status. The British Crown treated the Malay Sultanates as protectorates, with a claim to political legitimacy. The division between natives and aliens was spurred by the British-encouraged influx of Indian and Chinese laborers in the early twentieth century.<sup>3</sup> Immigration was restricted for the first time in 1930, in response to the deterioration of the economic situation, but until Singapore separated from the Union, the Malays were a minority in their own land.<sup>4</sup> The divisions between Malays and Chinese were further perpetuated by the presence of Western colonial personnel and its culture, which tended to inhibit the integration of the Chinese into the indigenous society by creating a situation in which it was more advantageous for the Chinese not to identify with the local population, but to assume the role of middleman between British and Malays.<sup>5</sup>

The ethnic Chinese response to Malaysian pluralism has been characteristic: "They have readily accepted a framework of government while stubbornly refusing to act and think (otherwise than) as Chinese."<sup>6</sup> This situation has been changing in recent years, as more and more Chinese come to regard Malaysia as their permanent residence, and come to be interested in its political life. Nonetheless the divisions are still visible, and continue to be based on distinctions of language and religion as well as race.<sup>7</sup> In particular, the question of Malay special privileges

continues to be an important issue. The ethnic Chinese have a liberal access to citizenship, but continue to be treated in many ways as second-class citizens. The Malay peoples are on the whole economically less well off than the Chinese, and the government has given them various sorts of aid and incentives to improve their economic welfare since independence. To this end, the government bureaucracy has invested a large amount of capital in commerce and industry. The reservation of special privileges to the Malay people is ensured by Constitutional Law, and the Malaysian Head of State is required to safeguard the special position of the Malays by reserving for them a "reasonable" proportion of public service positions, scholarships, university places, and trade or business permits or licenses. Although the intent of this form of discrimination is "positive," its effect on the ethnic Chinese is obviously negative.<sup>8</sup> Evasion of these laws has been possible through the use of indigenous "fronts"; overall, the trend has been along lines of mutual adjustment and integration--rather than assimilation--at the level of broad overall interests.

#### CITIZENSHIP

Citizenship law in Malaysia is both complex and liberal. It allows the ethnic Chinese a ready access to citizenship on a modified *jus soli* basis, and it is predicted that in the course of the next generation, virtually all Chinese in the Federation will have become Malaysian citizens.<sup>9</sup>

Any Malay born in the Malay States is automatically a Federal citizen.\* During the mid-1950s, federal citizenship became available to any person born in the Federation after Merdeka Day (31 August 1957), thus incorporating an unqualified *jus soli* principle. Many ethnic Chinese were also eligible for citizenship by registration or naturalization. By the end of 1957, two thirds of the Chinese population were Malayan citizens.

Since then, the *jus soli* principle has been qualified to the effect that a person born in Malaya after September 1962 was entitled to a citizenship only if (a) at least one of his parents was at the time of his birth a citizen of the Federation or permanently resident in it, or (b) he was not born a citizen of another country.<sup>10</sup>

Naturalization is also available to the ethnic Chinese in Malaysia. According to the Constitution, naturalization may be granted to any person over twenty-one if (a) he has fulfilled residence requirements, and intends permanent residence; (b) he is of good character; (c) he has an adequate knowledge of the Malay language.<sup>11</sup>

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\*Malays are defined in Article 160 of the Constitution as "any person who professes the Muslim religion, habitually speaks the Malay language, and conforms to Malay custom."

Access to citizenship for the Chinese is relatively easy in Malaysia, and perhaps as a result, the conditions for its deprivation are broad. According to the Constitution, the Federal Government may deprive any person who is a citizen by registration or naturalization of his citizenship "if satisfied-- (a) that he has shown himself by act or speech to be disloyal or disaffected towards the Federation; (b) that he has, during any war in which the Federation is or was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business which to his knowledge was carried on in such manner as to assist an enemy in that war; (c) that he has . . . been sentenced in any country to imprisonment for a term of not any less than twelve months or a fine of not less than \$5,000 . . . ." <sup>12</sup>

As discussed above, ethnic Chinese citizens of Malaysia are in many ways second-class citizens. They are distinguished linguistically from the Malays: Malay citizens are known as "bumiputera," while Malaysian citizens who are not Malays are known as "warga negara"; they are legally distinguished as well, as non-Malays, economically, educationally, and politically. <sup>13</sup>

#### NATIONAL SERVICES

The political rights of the ethnic Chinese have been a central issue in Malaysia. The ethnic Chinese are allowed to form and participate in political parties, but Chinese voting power, which is potentially considerable, has been reduced by a redistribution of electoral boundaries which favors rural, predominantly Malay constituencies, at the expense of urban ones, where the Chinese are more numerous. <sup>14</sup> Furthermore, local city politics were made non-elective in Penang and Kuala Lumpur, both of which have large populations of ethnic Chinese. It is thought that this move was made in order to counteract possible opposition to the national and state Alliance government from these Chinese-run municipal governments. <sup>15</sup>

Malay dominance of the Civil Service is guaranteed by law. Article 153 of the Constitution provides that 4/5ths of the positions in the civil service are reserved for Malays. In practice, Malays who migrate to the cities tend to be absorbed in the military or the civil service, thus reinforcing the identification of the government with the Malays, and the Chinese with the commercial sector. <sup>16</sup>

The racial composition of the military and police forces is not specified in the Constitution. Exact percentages are lacking, but the Chinese, as a result of both government policy and the historical situation, have participated little in the police or military. With the exception of various technical and medical services, the army is mainly Malay, as is the police force. <sup>17</sup> Part II, Article 8 of the Constitution further provides



that the Royal Malay Regiment, the main infantry force, is reserved for Malays.

Certain political positions are restricted to natural-born citizens of Malaysia, including Prime Minister, Mentri Besar, Chief Minister, Governor, and Yang di-Pertuan Negara. The State Constitutions have similar provisions which limit office to Malays, with the exception of Malacca and Penang, which have large populations of ethnic Chinese.<sup>18</sup>

Political debate in the 1960s was dominated by debate about such issues as citizenship, national language, and the special position of the Malays. After the inter-communal violence which followed the 1969 elections, these "sensitive issues" were removed from public debate. The 1969 revision of the Sedition Act together with the Constitutional Amendment Act of 1971 provide that "anyone who publicly questions Malay special privileges can be convicted of sedition and appropriately punished."<sup>19</sup> Thus these issues are now constitutionally proscribed.

#### OCCUPATIONAL RESTRICTIONS AND LAND OWNERSHIP

The Malaysian government has the power to restrict occupations to Malays in "reasonable proportions." Article 153 of the Constitution provides that it is the prerogative of the King "to issue new permits or licenses as required by Federal Law to Malays in proportions deemed reasonable by him."<sup>20</sup> With regard to trade or business permits, the licensing board must give preference to Malays or Malay-dominated companies. There must, however, be a reasonable evaluation of the proportion of Malays in the total population of an area, and the extent of Malay participation in the field.<sup>21</sup>

The ethnic Chinese are affected economically in other ways by Government policies. Personal tax rates, for example, rise progressively with income, and the Chinese, who generally earn more, thus pay at a higher rate than Malays. These public revenues are often channeled into schemes designed to aid rural Malays, though their contribution is small. It is argued that government assistance is necessary if overall economic welfare and political balance are to be achieved.<sup>22</sup>

Article 89 of the Constitution provides for a system of Malay Reservations, i.e. land which cannot be alienated into non-Malay hands. According to this Article, "Any land in a State which immediately before Merdeka Day was a Malay reservation in accordance with existing law may continue as a Malay reservation in accordance with that law until otherwise provided by an Enactment of the Legislature of that State . . . (2) Any land in a State which is not for the time being a Malay reservation in accordance with the existing law and has not been developed or cultivated may be declared as a Malay reservation

in accordance with that law."<sup>23</sup> The original Malay Reservation Enactment was made in 1913, and revised in 1933. Ethnic Chinese citizens would obviously be excluded from the ownership of such land, but their ability to own or rent land does not appear to be otherwise restricted.

## EDUCATION

Education for Chinese students and teaching in the Chinese language is allowed, but Malay alone has the status of an official language, and there are difficulties involved in maintaining Chinese-medium schools.

According to the Education Act of 1961, free but compulsory education was to be made available to all in the "language of the home"--either Malay, English, Chinese or Tamil. The medium of instruction for secondary education was to be English or Malay, with provision made for the continued study of Chinese or Tamil. Under this system, Malay-Chinese could sit for exams. All students were to have a "serious grounding in the Malay language." No Chinese school was closed after independence, but failure to convert to National-type schools meant forfeiting financial assistance from the Government.<sup>24</sup>

Under law, a minimum period of 315 minutes per week, and a maximum period of 675 minutes per week out of a total school time of 1,620 minutes per week, was allowed for the study of Chinese in a fully assisted, national-type Chinese secondary school. Thus about one-third of the school day could be devoted to the study of the Chinese language, literature and culture.<sup>25</sup>

The National Language Bill of 1967 stated that Malay alone had the status of official language on the Malay peninsula. English may still be used in official capacities, and translations into communal languages can be made as a practical convenience. The Bill reasserts the Constitutional guarantee under which "no person shall be prohibited from using (otherwise than for official purposes) or from teaching or learning any other language."<sup>26</sup> The major issue has been the relation of a national language to national unity. The desire of the Government has been to "promote unity rooted in a common culture and identity," with schools and the language medium as a lever.<sup>27</sup> Knowledge of the Malay language is increasingly essential. For example, entrance exams to Malaysian universities are administered in Malay, thus placing students of Chinese-medium schools at a disadvantage, and it is reported that legal forms and documents are now being printed exclusively in Malayan, thus putting persons who do not read and write Malayan in an awkward position in their dealings with the bureaucracy.<sup>28</sup>

Among Malay special privileges provided for in Article 153 of the Constitution is the "reservation for Malays of 3/4ths of all University scholarships."<sup>29</sup> A number of scholarship funds are totally restricted to Malays, or allow one non-Malay award to every three Malay awards.<sup>30</sup>

## ETHNIC RELATIONS

The ethnic Chinese have been the object of some racial agitation, sporadic and short-lived. There are unquestionably barriers to Chinese assimilation: "Malays, Chinese, and Indians are . . . segregated by state, city, occupation, and wealth, and there are cultural distinctions between them as well."<sup>31</sup> The Chinese community is viewed by Malays as "impenetrable, closed, and tightly integrated." Malay society is relatively more open and flexible, but "ethnocentrism, emotional and exclusivistic attachment to land, and ties to Islam, present as many barriers to the assimilation of an alien population."<sup>32</sup>

Language and religion are both "positive" cultural characteristics for Malays. Islam is the religion of the Federation, though other religions are free to practice, so long as no attempt is made to convert Malays. Islam, however, differs from Hindu or the Chinese eclectic religion in providing a political orientation to Moslems, and this creates a problem in maintaining political balance in a country where "religion is a principal means of defining ethnic loyalty," and politics is focused on the shaping of a national identity.<sup>33</sup>



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5. Ibid., p. 94.
6. Victor W. W. S. Purcell, *The Position of the Chinese in Southeast Asia*, 1948, pp. 290-91, quoted in Amyot, op. cit.
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8. Charles Coppel, "The Position of the Chinese in the Philippines, Malaysia, and Indonesia," Report No. 10 of the Minority Rights Group, 1972, p. 84.
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17. Alvin Rabushka, op. cit., pp. 33-34.
18. Ying Jung Huang, *Double Citizenship in Malaysia*, 1970, p. 29.
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21. Ying Jung Huang, op. cit., pp. 34-35.
22. Alvin Rabushka, op. cit., pp. 53-55.
23. Groves and Bowen, *Constitution*, pp. 86-87.
24. Jacques Amyot, op. cit., p. 17.
25. Ibid.
26. Cynthia Enloe, op. cit., pp. 100-1.

27. Ibid., p. iv.
28. Personal communication from Paul Kratoska.
29. Groves and Bowen, *Constitution*; Alvin Rabushka, op. cit., p. 31.
30. Ying Jung Huang, op. cit., pp. 33-34.
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32. Jacques Amyot, op. cit., p. 22.
33. Cynthia Enloe, op. cit., p. 25.

## SINGAPORE

### OVERVIEW

Singapore is predominantly Chinese, and has been an independent nation since 1965. Of the total population of 1,880,000, 74.5% are ethnic Chinese.<sup>1</sup> Special rights and privileges are not accorded to any sector of the population, and the approach to multiracial problems has been to foster fuller racial cooperation. The special rights and privileges accorded to Malays in their Constitution were not acceptable to the dominant voting elements in Singapore, and on these and other grounds Singapore separated from the Federation of Malaysia in 1965.<sup>2</sup>

Multiracialism and "non-communistic democratic socialism" are the two major goals operating in Singapore's present political structure. Singapore has a vested interest in the competitive capitalist world, and the form of socialism adopted has focused on redistribution through the devices of the welfare state as a means of attaining socialist goals.<sup>3</sup>

According to the Constitution, Malay, Mandarin, Tamil and English are the four official languages in Singapore. The national language is Malay, written in the Roman script. It is provided that "no person shall be prohibited or prevented from using or from teaching or learning any other language; and nothing . . . shall prejudice the right of the Government to preserve and sustain the study of the language of any other community in Singapore."<sup>4</sup>

The Government's policies towards the ethnic groups of Singapore are also set out in the Constitution. According to Article 49, "It shall be the responsibility of the Government constantly to care for the interests of the racial and religious minorities in Singapore," and "The Government shall exercise its functions in such manner as to recognize the special position of the Malays, who are the indigenous people of Singapore, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, religious, economic, social and cultural interests and the Malay language."<sup>5</sup> By this it is not intended that the Malays be accorded special privileges, as is the case in Malaysia. The Government's policies are liberal, and so long as Singapore remains prosperous, the Chinese majority will be benefitted.

### CITIZENSHIP

The status of citizen is easily acquired in Singapore. Like Malaysia, Singapore has a qualified jus soli provision whereby



every "person born in Singapore after the coming into operation of this Constitution shall be a citizen of Singapore by birth," unless at the time of birth (a) his father enjoyed diplomatic immunity; (b) his father was an enemy alien, or (c) "neither of his parents was a citizen of Singapore." Notwithstanding, the Government may, when it considers it just and fair, confer citizenship on a person born in Singapore whose parents were not citizens at the time of his birth.<sup>6</sup>

Citizenship may also be acquired by descent, by any person born outside Singapore whose father, at the time of his birth, was a citizen of Singapore by birth or registration. Such a birth must, however, be registered at the Consulate of Singapore in the country of residence, and persons involved must within the twelve months following the attainment of the age of twenty-one take "the oath of renunciation, allegiance, and loyalty" in order to divest himself of any foreign citizenship or nationality.<sup>7</sup>

Citizenship may be acquired through registration by any person who has satisfied the Government that he--"(a) is of good character; (b) has resided in Singapore throughout the twelve months immediately preceding the date of his application; (c) has during the twelve months immediately preceding the date of his application resided in Singapore for periods amounting in the aggregate to not less than ten years [*sic*]; Provided that the Government may exempt any applicant from compliance with the provisions of this paragraph--(a) Where such applicant has during the six [years] preceding the date of his application resided in Singapore for periods amounting in the aggregate to not less than five years; or (b) where in any special case the Government deems fit to confer citizenship upon such applicant. (d) intends to reside permanently in Singapore; and (e) has an elementary knowledge of the national language [unless over forty-five, or deaf and dumb]." Any woman who is married to a citizen of Singapore may be registered as a citizen of Singapore if she satisfies the Government that: (a) she has resided continuously in Singapore for a period of not less than two years immediately preceding the date of the application; (b) that she intends to reside permanently in Singapore; and (c) that she is of good character."<sup>8</sup>

Deprivation of citizenship is possible for any citizen who is a citizen by registration or by naturalization, if that status was gotten by means of fraud, false representation or concealment of any material fact, or if it was effected or granted by mistake. It may also be deprived if the Government is satisfied that "that citizen has at any time after registration or naturalization been engaged in any activities which are prejudicial to the security of Singapore, or the maintenance of public order therein, or the maintenance therein of essential services, or in any criminal activities which are prejudicial to the interests of public safety, peace or good order."<sup>9</sup>

## CONCLUSION

There are no restrictions on the ethnic Chinese in Singapore with regard to political participation, national and public services, education, employment, or access to land. In principle, no ethnic group is accorded special rights or privileges, either by law or in practice.

## FOOTNOTES

1. Lea Williams, *The Future of the Overseas Chinese in Southeast Asia*, 1966, p. 11.
2. Andrew W. Lind, *Nanyang Perspective: Chinese Students in Multiracial Singapore*, 1974, pp. 77-79.
3. Ibid., pp. 79-82.
4. Ahmad Ibrahim, *Singapore--Constitution*, "Republic of Singapore Independence Act, 1965," Article 7, p. 4.
5. Ibid., Part VI, Article 89, clauses 1 and 2, p. 75.
6. Ibid., p. 40.
7. Ibid., pp. 40-41.
8. Ibid., pp. 41-42.
9. Ibid., pp. 44-45.



## INDONESIA

### OVERVIEW

The ethnic Chinese community, as 2.6% of a total population of 106 million, is the largest foreign community in Indonesia.<sup>1</sup> Chinese trade with Java dates at least back to the ninth century, but settlement in large numbers followed the establishment of European power.<sup>2</sup> The Dutch reached the East Indies in 1596, and founded the Dutch East India Company in 1602. They continued to be the dominant power in the area, except for the British interregnum from 1811 to 1816, and until the Japanese occupation of 1942. Independence was declared by Sukarno on August 17, 1945.<sup>3</sup>

Both the English and the Dutch viewed the Chinese as serious mercantile rivals, and treated them as enemies in the early period of colonial rule. The Dutch eventually came to utilize the Chinese as middlemen, while controlling them with taxation and regulations concerning residence and travel. Under Dutch rule, the Chinese came "to dominate the internal trade and commerce of the entire archipelago . . . Most of the small-scale manufacturing enterprises of the country were owned and managed by them. Except for the smallest shops and market stands, retailing was also largely in their hands."<sup>4</sup> Evidentially the strong economic position of the Chinese was accompanied by attitudes of superiority and social exclusiveness.

During Dutch rule, the government policy was to keep the ethnic groups as separate as possible. Segregation was enforced in the educational system, the legal system, in restrictions on areas of residence, in government employment, and in language usage.<sup>5</sup> The Dutch elite managed the government, the armed forces, and big businesses; the Chinese engaged in business and economic activities, and the Indonesians engaged mainly in agriculture. The Dutch policy of setting up separate institutions for each ethnic group, reserving government and army jobs for the Dutch, and protecting the land of the natives, allowed the Chinese to become an economic middle class.<sup>6</sup>

The Chinese remained separate from the Indonesians also as a result of racial and cultural distinctness. They differ in appearance from Indonesians, and their cultural background is quite distinct from the complex of Hindu, Islamic, and Western elements that is basic to Indonesian society. The Chinese predilection for pork often acted as an absolute barrier for social intercourse in strongly Mohammedan regions.<sup>7</sup>

In the early twentieth century, Chinese nationalist movements gained strength, and in response, the Dutch allowed a number of concessions to the Chinese community. The pass system was

abolished, and the boundaries for Chinese quarters were extended. The concessions were considered to amount to preferential treatment for the Chinese. Until the last decade before World War II, the two communities were ruled under separate administrative systems.<sup>8</sup>

During the twentieth century, resentment of the Chinese grew. During the colonial period, they had enjoyed a markedly superior legal status and economic position. They had personal contact with Indonesians in their roles as moneylenders, tax-gatherers, and labor contractors for the Dutch, and they came to symbolize the 'Jew in Asia.' The resurgence of Chinese cultural and ethnic pride at the time of the Nationalist revolution in Indonesia contributed further impetus to anti-Chinese prejudice.<sup>9</sup>

After the Japanese occupation, the Chinese were politically neutral, and would not carry on an economic boycott of the Dutch. The Indonesians resented this "collaboration," though the alternative would have been economic suicide, and massacres of the Chinese ensued. The Republic of Indonesia Information Service reported that 1,000 Chinese were killed, and 100,000 rendered homeless in the course of civil war. The Chinese were caught between the Dutch and Indonesian revolutionaries, and after independence were the targets of Indonesian aspirations towards equality.<sup>10</sup>

Since independence, the Chinese community in Indonesia has been restricted in almost every field of activity. A concerted effort was begun in 1954 to reduce the importance of foreign Chinese in the economy, and by 1957, the policy of the ministries of Industry and Trade was to "move gradually towards the exclusion of aliens from all lines of business."<sup>11</sup> A crisis was precipitated by a regulation officially promulgated in November 1959. This regulation prohibited aliens from engaging in retail trade in rural areas, and was followed by an army ordinance promulgated in West Java which resulted in the forcible eviction of many Chinese, aliens and citizens, from the rural area. The People's Republic of China registered a formal protest, and within a year some 96,000 Chinese were repatriated to China.<sup>12</sup>

One problem has been that independent Indonesia has continued to use the colonial classification of persons into Europeans, foreign orientals, and natives. In social reality, the second term refers to the Chinese, including those who were Indonesian citizens and those who were alien, and the third term refers to natives, known as "asli Indonesians." The continuation of these distinctions is to a certain extent based on a social reality, since Chinese citizens of Indonesia and Chinese aliens both have similar names, distinct physical features, and tend to interact socially. As a result, the government policy of seeking economic control by citizens has meant protection and support for native, non-Chinese, "asli" Indonesians. The failure of the ethnic Chinese to assimilate to and identify with Indonesian

society has been cited as an excuse for this form of discrimination.<sup>13</sup>

In 1965, there were violent riots against the Chinese in the wake of the Communist attempt to take control of the government. It appears that since that event, the Indonesian government has been taking more positive steps to promote the assimilation of the Chinese community, and to legally abolish the colonial categories. There has been a promotion of name-changing for the Chinese, and though recent documents are not available in translation, the trend is towards a liberalization of the laws governing naturalization.<sup>14</sup>

#### CITIZENSHIP

The regulations governing the acquisition of citizenship in Indonesia have had a long and complex history. At present, it is estimated that out of a total population of 2,750,000 ethnic Chinese, there are still about one million Chinese who are not Indonesian citizens. The Dual Citizenship Treaty with China has been rescinded, and naturalization has become the sole means by which Indonesian citizenship may be acquired by the ethnic Chinese.

According to the Constitution of 1945, which is presently in effect, the basic regulations governing citizenship are as follows: Chapter X, Article 26, clause 1: "Citizens shall be natural-born Indonesians, and those who take out naturalization papers"; and Article 27: "All citizens shall have the same status in law and in the government and shall, without exception, respect the law and the government."<sup>15</sup> An Elucidation of the Constitution states that: "People of other nations, for instance, people of Dutch descent, of Chinese descent, and of Arab descent, who are domiciled in Indonesia, who recognize Indonesia as their country, and who are loyal to the State of the Republic of Indonesia, can become citizens."<sup>16</sup>

Citizenship may be acquired by birth, and the Citizenship Act emphasizes the *jus sanguinis* principle, whereby the child of a citizen of the Republic of Indonesia becomes a citizen of the Republic, regardless of the place of birth. The citizenship of the father is determinant, unless no legal ties exist between the father and child. Indonesian citizenship is automatically lost if any other citizenship is acquired, thus preventing the problem of dual citizenship.<sup>17</sup>

The *jus soli* principle is only used to prevent the existence of the stateless status [supporters of the Kuomintang who went to Indonesia as refugees are legally accepted as stateless]; and an orphan found within the territory of the Republic of Indonesia is awarded Indonesian citizenship.<sup>18</sup>



A person can be naturalized as an Indonesian citizen by submitting a request to this end. In order to be eligible, the following prerequisites must be fulfilled: he must either be born in Indonesia, or have been living in Indonesia continuously during the last five years, or have been living intermittently in Indonesia for a total of ten years, and must already be twenty-one years of age.<sup>19</sup>

The Citizenship Act contains a two-generation *jus soli* provision whereby an alien born and residing in Indonesia whose father was born and resides there can apply for Indonesian citizenship if he can divest himself of the citizenship of his country of origin. This clause created difficulties for the ethnic Chinese, for there was no way that this was possible under Chinese law, which claimed as a Chinese citizen every legal or extra-legal child of a Chinese father or mother, regardless of birthplace.<sup>20</sup>

A solution to this problem was attempted by means of the Round-Table Agreement of 1949, whereby almost all Indonesian-born Chinese were given a choice of citizenship. Over 390,000 rejected Indonesian citizenship between 1949 and 1951, the two-year option period. Another 600,000 thought that they had become Indonesian citizens by not registering, and the People's Republic of China claimed that Indonesian-born citizens who had not rejected Indonesian citizenship were legally citizens of both China and Indonesia. In 1955, one million ethnic Chinese were estimated to have held dual citizenship.

The solution to this confusion was the Dual Citizenship Treaty between China and Indonesia, which was formally ratified in 1959. According to the terms of this treaty, persons who had come of age (18 years old) had to choose their citizenship within two years. Otherwise, if their fathers were of Chinese nationality, they would be deemed to have chosen Chinese citizenship; if their fathers were Indonesian citizens, they would be held to have opted for Indonesian citizenship. If the father was not known, the mother's nationality was determinant. It was agreed that in the future, children born in Indonesia of alien Chinese parents would acquire Chinese citizenship.<sup>21</sup>

Act No. 5 of the Year 1960 in support of this treaty provided that "In connection with the provisions in Articles 21 and 26, it is understood that, if a person who, besides possessing the Indonesian citizenship also possesses the citizenship of the People's Republic of China, has expressed rejection of the citizenship of the People's Republic of China which has been legalized according to the provisions laid down in the Law concerned is regarded as having only the Indonesian citizenship . . ."<sup>22</sup> It is estimated that in the period between mid-1958 and 1959, under the provisions of the Dual Citizenship Treaty, when the Chinese had to declare their nationality, 40% positively identified with Indonesia and opted for citizenship, 30% elected to maintain PRC citizenship, and 20% held no definite position.<sup>23</sup>

In 1966, naturalization proceedings were halted for the Chinese pending review of the Sino-Indonesian agreement of 1959. By 1967, in the wake of the attempted communist coup, 3,100 Chinese had been repatriated to the PRC. In 1967, General Suharto reaffirmed the policy of promoting assimilation of Indonesian citizens of foreign descent "to prevent the existence of an exclusive racial way of life." Citizens of Chinese descent were again urged to change their names to Indonesian names, and public religious practices of the ethnic Chinese were banned. In 1969, the 1959 treaty with the PRC was revoked, "thus opening the way to wider nationalization of the alien Chinese."<sup>24</sup> Although few Chinese were allowed to acquire Indonesian citizenship before the coup attempt and in the year and a half following it, since then "there have been thousands of applications for naturalization and many have been granted."<sup>25</sup> The process is, however, slow, complicated and expensive.

According to Act No. 4 of the Year 1969, the Dual Citizenship Treaty with the PRC "allowed children to wait until one year after becoming adult to decide citizenship, so that much time and attention was wasted that was harmful to the Republic." The children of Chinese parents could decide to become Indonesian citizens, despite what their parents had previously said, a situation which "violates the basic principle of equality before the law." Furthermore, "It was not intended that the government would not be able to 'filter' would-be citizens." The lack of government control "constituted a danger to the safety of the Republic of Indonesia." Clause 6 provides that those who have already chosen one of the two citizenships will hold onto their citizenship, "but a child who at the time of enactment of this ordinance is not yet adult, will not be permitted, upon attaining adulthood, to choose citizenship. His citizenship will follow that of his parent. This does not close off the possibility that a person will be able to change citizenship (later on) following existing legal regulations." Finally, the Act states that the breaking of relations with the PRC effectively ended the Dual Citizenship Treaty.<sup>26</sup> The status of ethnic Chinese citizens of Indonesia vis-a-vis the PRC is still ambiguous, though policy statements made by the Communist Party and the Government of the PRC declare that China no longer regards as Chinese nationals those Chinese who have acquired a local nationality. It has been argued that Chinese law is subordinate to such statements of policy.<sup>27</sup> Some Indonesian officials have further argued that only holders of Peking passports are PRC nationals, and that the rest of the alien Chinese are "stateless." By this view, almost 75% of the alien Chinese population would be stateless, and dual nationality would pose no problem.<sup>28</sup> It is unclear at present what legal moves will be made to solve the problem of dual nationality for the alien Chinese who desire to become naturalized citizens, but the indications are clearly that the Indonesian government wishes to incorporate and assimilate the ethnic Chinese population.

## NATIONAL SERVICES

Political participation is possible for ethnic Chinese citizens of Indonesia. No distinction is made in the Voting Law between citizens and naturalized citizens: all Indonesian citizens are, in principle, eligible to vote.<sup>29</sup> However, ex-members of the Indonesian Communist Party and its affiliated mass organizations (including BAPERKI, an organization, predominantly Chinese, which sought to secure equal civil rights for all Indonesian citizens) have been revoked of the right to participate in the General Elections, either as voters or candidates. This is justified on the grounds that "it is a democratic right to deny a certain organization, using force as a means to achieve its goal and which aims at the destruction of democracy itself, its rights of existence in a democratic state, and it is therefore denied the benefit of the democratic rights which she herself wants to destroy."<sup>30</sup>

A candidate for office must be a citizen of Indonesia, twenty-one years of age, devoted to God Almighty and loyal to the Pantja Sila principles, i.e. the basic ideology of the State. The candidate should speak the Indonesian language, and be able to read and write Latin characters. He should also be loyal to the 1945 Constitution, and "the Independence Revolution of the Indonesian People as proclaimed on 17th August 1945 in order to fulfill the Message of the sufferings of the people." Any person who has been denied the right to elect or be elected, "including citizens of the Republic of Indonesia ex-members of the banned Indonesian Communist Party and its affiliated mass organizations, or those who were directly and indirectly involved in the counter-revolutionary September 30 movement,"<sup>31</sup> cannot pose his candidature.

The Indonesian government has in the past been concerned about the political activity of the Chinese population. In the 1950s, the Kuomintang fell into disfavor with the government, and in 1958, using emergency powers, the government seized banks, businesses, factories, and closed schools, newspapers, etc., owned by alleged KMT supporters.<sup>32</sup> On the whole, Chinese political activity has been restricted, and ethnic Chinese have been cautious about indicating their political orientation. It has been commented, however, that "Chinese-Indonesians have been able to participate effectively in predominantly asli-Indonesian political groups."<sup>33</sup>

A small number of Chinese have participated in other forms of government service. Generally, however, government service "does not serve the interests and aspirations of most Indonesian Chinese." There are two major reasons for this: first, they were not allowed such positions under the Dutch. They could not take the Civil Service examinations, and very few were employed in any sort of government service. Second, the pay for such service is often low, and the Chinese tend to prefer trade, commerce, and industry as occupations.<sup>34</sup>



The numbers of Chinese involved in Civil Service work are very low. For example, Semarang, a government center which employs tens of thousands of civil servants, employs no more than several hundred Semarang Chinese. These few generally work in white collar jobs, with a small number in the police force and army, and include several administrators.<sup>35</sup> It is also reported that the Chinese have enjoyed some success in the Indonesian navy. On the whole, the combination of the Chinese preference for commerce, and the preference accorded to Indonesians in hiring practices, has resulted in a low representation of the ethnic Chinese in government services.

#### OCCUPATIONAL RESTRICTIONS AND LAND OWNERSHIP

The Indonesian government has followed a policy of nationalization with regard to both employment and land ownership. According to the Indonesian Labour Legislation on the Employment of Foreigners, the restriction of certain occupations to Indonesian citizens has the following explanation: "In order to secure a proper share of employment opportunity for Indonesian citizens as well as to satisfy the desire of the Indonesians to occupy appropriate places in the various fields of working, the majority of which are up to now still occupied by aliens, the Government deems it necessary to regulate works which can be performed by foreign manpower with the objective of putting restrictions to cases deemed necessary and consequentially to provide employment opportunity to Indonesian citizens." Control over foreign labor, in the interest of "Indonesianization" is considered to be in the interest of the national economy.<sup>36</sup> The basic policy is that "In principle, an alien has the same opportunity to work as Indonesian nationals, but it should not occur that an alien is taken on for work which can as well be done by nationals."<sup>37</sup> In practice, these regulations are frequently applied to Indonesian citizens of foreign descent, and Indonesians are preferred to ethnic Chinese nationals if they are qualified for the job.<sup>38</sup>

The Government has placed restrictions on Chinese activity in certain fields of business, such as the import trade, retailing, and rice milling, and has attempted to confine Chinese settlement to urban areas. The Chinese reaction to Government policies has been to extend business activities to areas not yet touched by government controls, such as small-scale manufacture, building and construction, etc.<sup>39</sup> In 1969, despite the disruptions, "the role of the Chinese in the domestic trade sector was an essential and continuing element."<sup>40</sup>

Alien control measures have included the following: remittances to China were stopped; businesses were limited on the foreign exchange unless 50% of their capital was turned over to Indonesian business partners; the Chinese were excluded from certain government development activities; licenses for certain businesses

were restricted; a law discouraging the employment of foreigners was passed [see above]. In 1959, these measures were stepped up, and a trade ban was placed on aliens conducting business in small towns and villages. This move was expected to displace 300,000 to 400,000 Chinese. As mentioned in the overview, it was interpreted by the army in West Java as a policy which justified the forcible eviction of ethnic Chinese, whether naturalized citizens or aliens, from the rural areas. The move was justified to the PRC on the grounds that these aliens were both capitalistic and monopolistic, and an obstacle to socialism. The Chinese reply was critical of the move, but an agreement was reached, and a certain number of the displaced ethnic Chinese were repatriated to the PRC.<sup>41</sup>

Family ownership of business enterprises is still virtually exclusive among the ethnic Chinese, although Government regulations have tried to force them, regardless of citizenship status, to share ownership in these companies with indigenous Indonesian partners. A certain number of joint Indonesian-Chinese enterprises have been formed, but the government goal of building up "an Indonesian middle class which would come to have a position of economic welfare and power equal to or stronger than that of the Chinese" has not been achieved.<sup>42</sup>

The ownership of land, and access to natural resources is also limited to Indonesian nationals. Dual nationals are not permitted to own land. Exploitation of the land, and the right of building is limited to Indonesian citizens, and to corporations established according to Indonesian Law (i.e. employing Indonesian nationals). The right of use may be granted for certain periods to Indonesian citizens; foreigners residing in Indonesia; corporations established according to Indonesian Law and having their seat in Indonesia; and foreign corporations having a representative in Indonesia.<sup>43</sup>

## EDUCATION

As of 1967, foreign schools are not permitted in Indonesia. It is recognized that private Chinese education in Indonesia has "performed the political function of intensifying Chinese separatism, and, thus, retarding assimilation into the larger Indonesian society."<sup>44</sup> It further reinforced political factionalism within the Chinese community between "totok" or China-oriented, and "peranakan," the Indonesian-oriented Chinese.

The Indonesian government began to exercise more rigid control over Chinese-medium schools in 1957, at about the time that martial law was imposed. The government claimed that control over these schools was necessary in order to safeguard Indonesian national interests. The regulations of 1957 drastically reduced the number of Chinese schools and introduced far stricter supervision over those which remained. KMT-operated schools were

forcefully closed, and in the period which followed, Peking-oriented groups, including BAPERKI, sponsored a number of schools and even a university according to the new regulations and an "admittedly assimilationist philosophy."<sup>45</sup> These schools revised their curriculum to include more subjects on Indonesia--language, history, and geography were compulsory subjects--but these could be taught in either Indonesian or Chinese. The number of students who continued their education in Taiwan or China declined, and the curriculum of the schools was further revised in light of this situation. Most Indonesian universities were closed to the graduates of Chinese schools, with the exception of the university established by BAPERKI in the early 1960s.<sup>46</sup> In 1960, President Sukarno issued a Presidential Decree "which restricted cultural missions from abroad in order to prevent the sort of foreign control of schools that had been exercised by such missions from China [i.e. Taiwan] in the past."<sup>47</sup>

After the 1965 "coup" attempt, a great political upheaval took place. The Indonesian Communist Party and other left-wing organizations, including BAPERKI, were banned. Peking was accused of supporting the abortive "coup," and all alien Chinese organizations affiliated with Peking were declared illegal. Shortly thereafter, all Chinese-medium schools were closed. BAPERKI schools, including the university, were put under government supervision and eventually taken over by the government. Alien Chinese children were deprived of any education for almost three years. In 1968, a Presidential Regulation was issued, which permitted the establishment of schools sponsored by private groups within the Chinese community. These schools were declared open to aliens as well as Indonesian citizens, but the students have been mostly aliens. The curriculum follows that of regular government schools, and specialness of the schools lies only in the fact that the Chinese language is included as a subject. There are now eight of these schools in Indonesia, and their numbers are expected to increase. However, the number is far too small to accommodate the bulk of alien Chinese children. (There are still about one million Chinese who are not Indonesian citizens.)<sup>48</sup>

The new regulations issued in 1967, "although recognizing the right of all Chinese children to education, stipulate that they must not make up the majority of students in any Indonesian schools and must not exceed 10% of the student body in any university."<sup>49</sup> A 1967 policy statement on the "Chinese problem" states that, with the exception of diplomats, foreign schools are not to be permitted, and that alien organizations must confine their activities to health, religion, burial services, and sports and recreation.<sup>50</sup>

## ETHNIC RELATIONS

Indonesian-Chinese relations have been tense, as evidenced



by the anti-Chinese riots of the late 1960s. Independent Indonesia has inherited a legacy of colonial pluralism and separatism which does not mix well with nationalistic goals. Because of historic divisions and prejudices between Indonesians and ethnic Chinese, those of the latter who have become citizens of Indonesia have frequently been treated as aliens by native Indonesians, and made to share the restrictions imposed on alien Chinese as a result of economic measures favoring the asli-Indonesians.<sup>51</sup> The legal classification of Indonesian inhabitants into Europeans, Natives, and Foreign Orientals, which has its origin in the Dutch colonial era, was abolished with Instruction of the Cabinet Pre-sidium No. 31/U/In/12/1966. In principle, since then "the Public Registrar's offices provide equal services to all individuals living in the territory of the Republic of Indonesia. Differentiation only exists between citizens and non-citizens of the Republic of Indonesia."<sup>52</sup>

An image of the overseas Chinese in Indonesia remains that of a group "which is neither internally unified nor assimilated into Indonesian society."<sup>53</sup> According to the *Area Handbook for Indonesia*, many peranakan Chinese are loyal to the PRC or to Nationalist China, and only a small number give "whole-hearted" allegiance to the Indonesian government: "Most Chinese are racial and cultural nationalists rather than political nationalists."<sup>54</sup>

Stereotypically, the Chinese often consider themselves to be superior to Indonesians in ability, intelligence, and energy. The traditional achievements of the Chinese are thought to surpass those of Indonesians. While there has been a certain amount of suspicion and hostility to the Indonesian government as a result of the anti-Chinese riots and discriminatory policies, a large group of ethnic Chinese citizens accept the jurisdiction of the government, either with a determination to participate as a separate group in Indonesian society, or commitment to assimilation as a means to avoid discrimination and persecution.<sup>55</sup>

Indonesians, on their side, feel a great deal of hostility towards the Chinese, which the Chinese recognize there to be good reason for. The Chinese had a privileged place in the colonial society, were not active in supporting the Indonesian revolution, have often maintained their own customs rather than assimilating, and are disliked for economic reasons as well. To a certain extent they are viewed as opportunistic, fair-weather citizens who are loyal only so long as it is in their economic interest.<sup>56</sup>

Government policies have continued to promote assimilation as a solution to the Chinese problem. Recent suggestions to the government which appear to have had effect have supported the following policies: the colonial categories should be abolished, promoting treatment of the Indonesian Chinese as citizens of Indonesia; the government must allow non-subversive foreign Chinese to become citizens; a program of name-changing for the Chinese citizens should be supported, in order to establish their identity

as Indonesian citizens and prevent discrimination against them; and finally, education must ensure that the ethnic Chinese are loyal citizens, who identify with the Southeast Asian country in which they reside.<sup>57</sup>

## FOOTNOTES

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6. Lie Tektjeng, "On the 'Chinese Problem in Indonesia Following the September 30 Movement': A Personal View," 1970?, pp. 3-5.
7. *Ibid.*, p. 2.
8. D. W. Willmott, *op. cit.*, pp. 2-11.
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13. Lie Tektjeng, *op. cit.*, pp. 6-7.
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15. McBeath, *Constitution*, Chapter X, p. 11.
16. *Ibid.*, "Elucidation of the Constitution," Chapter X, Article 26, clause 1.
17. D. W. Willmott, *op. cit.*, p. 42; *Area Handbook for Indonesia*, 1970, p. 116.
18. *Area Handbook for Indonesia*, 1970, pp. 116-17.
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25. Charles Coppel, "The Position of the Chinese in the Philippines, Malaysia, and Indonesia," Report No. 10 of the Minority Rights Group, 1972, p. 79.
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27. Charles Coppel, op. cit., p. 76.
28. Ibid., p. 79.
29. Indonesia, "For the Election of Members of the Constituent Assembly and of the House of Representatives," 1953.
30. Indonesia, "Guidebook on Indonesian Elections," 1971, p. 15.
31. Ibid., pp. 8-10, 33, 46.
32. Jacques Amyot, op. cit., p. 64.
33. Tjong Sioe Tan, "The Role of the Chinese-Indonesians," 1972, p. 13.
34. D. W. Willmott, op. cit., p. 39.
35. Ibid., pp. 39-40.
36. Elucidation of Act No. 3, 1958, regarding the Employment of Foreign Workers, in *The Indonesian Labour Legislation on the Employment of Foreigners*, by R. Pratomo, 1972.
37. R. Pratomo, op. cit., Chapter I, p. 4.
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## PHILIPPINES

### OVERVIEW

The Chinese population in the Philippines is comparatively small, both absolutely and in relation to the total population. It is estimated that there are only 450,000 ethnic Chinese out of a total population of 32 million.<sup>1</sup> There have been Chinese settlements in the Philippines for centuries, but immigration controls have been strict since the late nineteenth century, and the Philippines largely escaped the flood of Chinese immigration to Southeast Asia which occurred in that period.

Under the Spanish regime, the pattern of Chinese residence was determined by a policy of segregation. In the Philippines, however, there was less of a barrier to "a complete merger between the Chinese of mixed ancestry (mestizos) and the indigenous people" than in Malaysia or Indonesia.<sup>2</sup> The Spanish treated the Chinese mestizos separately from the Chinese for purposes of legal classification, and the mestizos were free from most of the legal restrictions which were made on the pure Chinese. Furthermore, the Spanish encouraged the acquisition of Spanish culture, and upward mobility was possible through much the same channels for both the mestizos and the indigenous peoples.<sup>3</sup>

America was ceded the Philippines by the Spanish in 1898. The laws related to the admission of the Chinese to the United States were extended to cover the Philippines, thus largely excluding Chinese immigration. The U.S. Senate debated liberalization of these laws for the Philippines: the Chinese were hard-working and valuable colonizers, but were also legendary for their ability to save money, establish themselves in trade, and drive Filipinos out of business. The laws were not liberalized, but there is evidence to suggest that there was a great deal of illicit immigration.<sup>4</sup>

The ethnic Chinese population of the Philippines has performed the economic function of retailers and middlemen between agricultural producers and big consumer centers. They have also been dominant as crop processors: in particular, in the processing of rice, corn, sugar, copra, and tobacco. They are excluded from direct agricultural pursuit by legislation, and are predominantly city dwellers, in large part by choice.<sup>5</sup>

The Chinese community has been regarded by the Government of the Philippines as exploiting the indigenous peoples, and anti-Chinese legislation has been passed since World War II. The ethnic Chinese are in many ways second-class citizens, even if they have adopted Philippine names or nationality, since it is feared that if given full citizenship, they will dominate the economy of the country.<sup>6</sup>

## CITIZENSHIP

Citizenship is both difficult and expensive to acquire by naturalization. Though there has been much debate and pressure for the adoption of a modified jus soli principle as a basis for acquiring citizenship, the laws have not yet been modified.

The following are considered Philippine citizens under the provisions of the Constitutions: "(1) Those who were citizens of the Philippines at the time of the adoption of the Constitution. (2) Those born in the Philippines, who, before the adoption of the Constitution, had been elected to public office in the Philippines. (3) Those whose fathers are citizens of the Philippines. (4) Those whose mothers are citizens of the Philippines, who, upon reaching the age of majority, elect Philippine citizenship. (5) Those who are naturalized in accordance with law."<sup>7</sup>

In order to be naturalized, the following qualifications must be met by the applicant: "First. He must be not less than twenty-one years of age on the day of the hearing of the petition; Second. He must have resided in the Philippines for a continuous period of not less than ten years; Third. He must be of good moral character and believe in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living. Fourth. He must own real estate in the Philippines worth not less than five thousand pesos, Philippines currency, or must have some known lucrative trade, profession, or lawful occupation; Fifth. He must be able to speak and write English or Spanish and any one of the principal Philippine languages; and Sixth. He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen."<sup>8</sup>

In practice, naturalization is difficult to acquire. The expenses involved, not including bribes, in 1959 amounted to 4,000 pesos (U.S. \$1,250) which means, essentially, that citizenship by naturalization is out of reach for all but the very wealthy.<sup>9</sup>

The language requirement is strictly enforced, and this is a stumbling block for many. According to one author, "The Philippines is unique . . . in the degree to which access to citizenship for the Chinese has been restricted by judicial interpretation."<sup>10</sup> According to this author, the requirement that the applicant must be of good moral character has been strictly applied, and "courts have been quick to find many forms of conduct reproach-



able and on these grounds refuse to grant naturalization."<sup>11</sup> For example, several denials of citizenship have been based on provisions which restrict Filipinos from participating in Chinese Associational Organizations. Those found to continue membership in such organizations, in particular those who sent their children to Chinese schools, would be denaturalized. This is not law, but a 1963 Supreme Court decision stipulated that aliens who "participate in Chinese associational activities may be regarded as having no sincere desire to become Filipinos." This decision led many such organizations to change their names to include "Filipino-Chinese" as part of the organizational name, and to claim that Filipinos could belong to these organizations.<sup>12</sup>

Once citizenship has been acquired, it cannot be said that the problems have ended. According to one Filipino legal authority, "it is elemental that not all the citizens of a country enjoy all the rights and privileges of a natural-born citizen."<sup>13</sup> Naturalized citizens often find themselves in the position of second-class citizens, for example, when applying for government franchises, an application for imports, or any other permit reserved to Philippine citizens. "These applications seem always to get lost or relegated to the bottom of the last pile to be considered."<sup>14</sup> Furthermore, naturalized citizens do not enjoy full political rights.

#### NATIONAL SERVICES

All citizens of the Philippines are eligible to vote in elections, but not all citizens are entitled to become candidates for public office. One of the qualifications required for candidature for the offices of President, Vice President, Senator, and Representative, is that the candidate be a natural-born citizen of the Philippines. The Philippines Supreme Court has given no definition of "natural-born citizen," but the suggested criterion is that in order to qualify, a person must be able to "claim citizenship without any prior declaration of intent." By this criterion, naturalized citizens or citizens by election would not be eligible.<sup>15</sup>

The ethnic Chinese in the Philippines have been allowed to form a wide range of Chinese associations which operate freely, and the Chinese Nationalist Party's movement has been left unhampered. In this, the Chinese community has a freedom which perhaps has no parallel among Asian ethnic minorities in any other Southeast Asian country. The Philippine government does not appear to have regarded the small community of ethnic Chinese as a serious threat to national security.<sup>16</sup>

Employment in the Civil Service is subject to several restrictions. First, employment in the classified branch of the Philippine Civil Service is intended to be limited to citizens of the Philippines, and aliens are not eligible for appointment.<sup>17</sup>

Second, according to the Constitution, the Civil Service Commission, as well as the Independent Commission of Elections and the Constitutional Commission, are to be administered by "natural-born citizens of the Philippines."<sup>18</sup> In practice, it is likely that both restrictions would be interpreted to exclude ethnic Chinese citizens, and certainly there are legal grounds for the exclusion of naturalized citizens and citizens by registration. According to the Constitution and the Philippine Annotated Laws, there are no discriminations made between racial minorities or different statuses of citizenship in the formation of an "integrated national police force" or the "citizen army."<sup>19</sup>

#### OCCUPATIONAL RESTRICTIONS AND LAND OWNERSHIP

Legislation designed to restrict the economic activity of the Chinese in the Philippines has been in effect for many years. There have been a number of Filipinization bills, including the Retail Trade Law of 1960, which barred aliens, with the exception of Americans under the Parity Act, from engaging directly or indirectly in the retail trade business. The law provides that aliens engaged in retail trade on or prior to May 15, 1954, may continue to do so until death or forfeiture of license or voluntary retirement.<sup>20</sup> Since this law was passed, the nationalization of business, etc., has been sweeping, and includes thirty-three categories of economic activity. A number of these are limited to Filipino citizens, or in the case of juridical persons, to those which are supported by at least 60%, and in certain cases 75%, Filipino capital. The following, for example, have been nationalized: "1) Disposition, exploitation, development, and utilization of agricultural, timber, and mineral lands of the public domain; minerals, coal, etc., and other natural resources. 2) Acquisition, leasing and holding of public agricultural lands. 3) Transfer or assignment of private agricultural lands . . . 22) Permit to engage in domestic air commerce. 23) Transfer of vessel and shipping facilities. 24) Certificate of Philippine register issued to vessels of domestic ownership to engage in coastwide trade . . . 30) Granting preference to Filipino citizens in lease of public market stalls," etc.<sup>21</sup> Though ostensibly aimed at aliens, the object of the majority of these moves was the ethnic Chinese community, which was popularly considered to hold a monopoly in many of these areas.

The ownership of land in the Philippines is restricted. A Supreme Court interpretation, according to McBeath (1972), "disallowed 'alien' purchase of land for residential purposes (the Kirichenko decision) and limited 'alien' opportunities to lease land for such purposes."<sup>22</sup> Furthermore, it is believed that Article XV, Section 9 of the 1972 Constitution, which limits utilization of "natural resources" to Philippine citizens or 60% Philippine-owned corporations, is construed to include land as a natural resource.

In 1960, the rice and corn wholesale enterprises were nationalized, thus further narrowing the Chinese economic sphere. The Chinese had a controlling interest in these enterprises, and were unquestionably affected by it. The enactment of the Rice and Corn Act was complemented by boards which were set up to assist Philippine merchants, and was further regulated through an anti-dummy board.<sup>23</sup> As has frequently been the case, naturalized citizens were affected by this law as well as aliens. There is, however, a legal opinion on this question which states, in response to a letter from the Executive Director of the Rice and Corn Board, that "the Board cannot, in our opinion, properly treat naturalized Filipinos differently from natural-born Filipinos, i.e. it cannot legally adopt one rule for natural-born Filipinos and another for naturalized citizens."<sup>24</sup> Nonetheless, such discrimination does exist.

The pattern resulting from restrictive legislation has been a combination of a dispersion of Chinese economic interest in the Philippines, a changeover from the retail/wholesale business to import/export trade and light manufacturing, a rush to attain Philippine citizenship, and evasion of the nationalization laws. The Chinese are still better able to find jobs in the Philippines than the mass of Filipinos, and "private opinion consistently demonstrates that the Chinese economic interest has not been compromised; legitimate spheres for its continued exercise are not miniscule."<sup>25</sup>

## EDUCATION

Until recent years, the ethnic Chinese community was allowed to maintain its own schools, and to teach in the Chinese language. A bilateral treaty with Taiwan guaranteed this right to the Chinese, but the recent establishment of relations with the PRC has altered the situation, and in all likelihood, the Philippine Government will take full control and responsibility for the education of the Philippine Chinese.

According to the Constitution, all educational institutions are to be regulated by the state. Section 8, clause 7 of Article XV states that: "Educational institutions, other than religious or charitable, shall be solely owned by Philippine citizens or associations, 60% of the capital of which is owned by citizens, and with control and administration vested in citizens. This does not apply to schools established for foreign diplomatic personnel and their dependents, or other foreign temporary residents."<sup>26</sup> This provision was aimed directly at the Chinese schools, with the intent of forcing them to end a system of education still conducted largely in Chinese.

The Chinese school system symbolizes for Filipino officials the last stand of Chinese communalism. The system had retained legitimacy because it was "unpolitical," and Kuomintang control was assured. Recognition of the PRC, together with the 1972 provision, of course jeopardizes this control. A 1972 bill was put



forth in Congress which proposed that the Department of Education be Filipinized, and that the Department bring under its control any Filipino school in which the medium of instruction was not Filipino or English. The Bill allowed for the "slow replacement of present Chinese teachers and school staffers." The Bill was not acted on in 1972, and a formal protest was registered by the ambassador from Taiwan. The Chinese community appears to be split on the issue, with one faction arguing that the Chinese schools should be allowed to continue as "religious or charitable institutions," and the other arguing that Chinese culture should not become the dividing line between schools or two peoples.<sup>27</sup> As the situation stands, Constitutional regulations regarding the Filipinization of Chinese schools are not likely to pose a grave problem. At present, the percentage of Filipino citizens in the average Chinese school is 60%+.<sup>28</sup>

#### ETHNIC RELATIONS

The ethnic Chinese community in the Philippines is largely considered to be integrated into Philippines society. Most Chinese who reside in the Philippines are no longer Chinese, but "Pinsinos," a term invented for persons of Chinese descent who consider the Philippines their home, and have adopted Christianity and the customs of that country. Such a form of integration is perhaps what can reasonably be expected. As McBeath has commented, "For our analysis of the late twentieth century Philippines, assimilation as a socio-anthropological category is largely useless . . . The confluence of colonial patterns, the temporal dispersion of minority populations, and the intense nationalism of Southeast Asian states makes it all but impossible to speak of 'assimilation' as an end-state."<sup>29</sup>

Ethnic stereotypes do persist, on the part of both ethnic Chinese and Filipinos. The Filipinos frequently view the ethnic Chinese as an exploitative merchant class, a group of crafty and unscrupulous traders who cannot be trusted. They are also viewed as opportunistic citizens who do not identify fully with the Philippines, and thus do not deserve full legal rights. There has, however, been very little overt hostility on the part of Filipinos against the ethnic Chinese. One observer notes that these stereotypes seem readily enough abandoned when an individual Chinese is found to be the exception.<sup>30</sup>

The ethnic Chinese, on their part, have felt a certain degree of bitterness about the legislative discrimination which excludes them from many fields of economic enterprise. They have continued to be socially exclusive, and in general, have little social contact with Filipinos.<sup>31</sup> Despite this, it is reported that they are able to conduct any necessary relations with Filipinos with ease. At present, they remain an advantaged minority, with greater "educational possibilities, occupational chances, and potentialities for personal fulfillment" than most Filipinos.<sup>32</sup>

## FOOTNOTES

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3. Ibid.
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5. Jacques Amyot, *The Chinese and the National Integration in Southeast Asia*, 1972, pp. 25-26.
6. Wee Mon-Cheng, "The Future of the Chinese in Southeast Asia as Viewed from the Economic Angle and Other Articles on Economic Topics," 1972, p. 7.
7. Ramon M. Velayo, *Philippine Citizenship and Naturalization*, 1965, pp. 8-9.
8. *Philippine Annotated Laws*, 1956, Title 18 Citizenship and Nationalization, pp. 8-9.
9. Jacques Amyot, op. cit.
10. Charles Coppel, op. cit., p. 79.
11. Ibid., pp. 80-87.
12. Gerald Alan McBeath, *The Political Integration of the Philippine Chinese*, 1973, p. 66.
13. Ramon Velayo, op. cit., p. 3.
14. Jacques Amyot, op. cit., p. 5.
15. Ramon Velayo, loc. cit.
16. Gerald McBeath, op. cit., p. 67.
17. Ramon Velayo, op. cit., p. 7.
18. Gisbert H. Flanz and George Menake, "Constitution of the Republic of the Philippines," in *Constitutions of the Countries of the World*, issued July 1973, Article XII, pp. 30-34.
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20. Jacques Amyot, op. cit., p. 36.
21. Ibid., pp. 36-39.
22. Gerald McBeath, op. cit., pp. 33-34.
23. Ibid.
24. Salvador L. Marino, Appendix "J," in Velayo, op. cit., pp. 647-48.

25. Gerald McBeath, op. cit., pp. 35-37.
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27. Gerald McBeath, op. cit., p. 103; Shubert S. C. Liao, *Chinese Participation in Philippine Culture and Economy*, 1964; Charles J. McCarthy, *Philippine-Chinese Profile*, 1974, p. 178.
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31. Jacques Amyot, op. cit., p. 32.
32. Gerald McBeath, op. cit., p. 183.



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